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Letter dated 1 November 2010 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, addressed to the President of the Security Council

I am pleased to transmit herewith the assessments of the President (see annex I) and of the Prosecutor (see annex II) of the International Tribunal for the Former Yugoslavia, pursuant to paragraph 6 of Security Council resolution 1534 (2004).

I should be grateful if you would transmit these assessments to the members of the Security Council.

(*Signed*) Patrick **Robinson**
President

10-61469 (E) 291110

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Annex I

Assessment and report of Judge Patrick Robinson, President of the International Tribunal for the Former Yugoslavia, provided to the Security Council pursuant to paragraph 6 of Security Council resolution 1534 (2004), covering the period from 15 May 2010 to 15 November 2010

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1. This report is submitted pursuant to Security Council resolution 1534 (2004) adopted on 26 March 2004 in which the Council, in paragraph 6 of the resolution, requested the International Tribunal for the Former Yugoslavia "to provide to the Council, by 31 May 2004 and every six months thereafter, assessments by its President and Prosecutor, setting out in detail the progress made towards implementation of the Completion Strategy of the Tribunal, explaining what measures have been taken to implement the Completion Strategy and what measures remain to be taken, including the transfer of cases involving intermediate and lower rank accused to competent national jurisdictions".[1]

[1] The present report should be read in conjunction with the previous 13 reports submitted pursuant to Security Council resolution 1534 (2004): S/2004/420 of 24 May 2004; S/2004/897 of 23 November 2004; S/2005/343 of 25 May 2005; S/2005/781 of 14 December 2005; S/2006/353 of 31 May 2006; S/2006/898 of 16 November 2006; S/2007/283 of 16 May 2007; S/2007/663 of 12 November 2007; S/2008/326 of 14 May 2008; S/2008/729 of 24 November 2008; S/2009/252 of 18 May 2009; S/2009/589 of 13 November 2009; and S/2010/270 of 1 June 2010.

2. As requested by the Secretary-General in his letter of 8 October 2009 to the President of the Tribunal, following instruction from the Security Council, this report complies with recommendation (m) of paragraph 259 of the report on the administrative and budgetary aspects of the options for possible locations for the archives of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda and the seat of the residual mechanism(s) for the Tribunals (S/2009/258), and reports to the Security Council on the Tribunal's progress on the tasks listed in recommendation (l) of paragraph 259.

I. Introduction

3. At the close of the reporting period, 13 persons are in appeal proceedings,[2] and 18 persons are on trial.[3] One case, *Haradinaj et al.*, was returned to the pretrial stage following the Appeals Chamber's decision to grant the Prosecution's request for a partial retrial. It is anticipated that the *Haradinaj* partial retrial, which involved three accused, will commence in the new year.[4] Two accused — Ratko Mladić and Goran Hadžić — remain at large.[5] To date, the Tribunal has concluded proceedings against 125 of the 161 persons indicted by the Tribunal.

4. During the reporting period, the Tribunal faced unprecedented challenges, but also achieved unprecedented advancement in the implementation of its Completion Strategy. The Tribunal conducted proceedings in 10 trials concurrently by doubling up Judges and staff so that they are working on more than one case. During the reporting period, the second of the Tribunal's three multi-accused trials, *Prosecutor v. Popović et al.*, was brought to a close. Judgement is anticipated to be delivered in the *Đorđević* trial by the end of the year. An additional three trials — *Gotovina et al.*, *Perišić*, and the *Haradinaj* partial retrial — will conclude in 2011. Five trials are anticipated to conclude in 2012, and the final case, that of *Karadžić*, should be completed at the end of 2013.

5. The Tribunal continues to take all measures possible to expedite its trials without sacrificing due process. However, as the anticipated completion dates in this report show, the estimates for the completion of some trials (*Tolimir*, *Gotovina et al.*, *Perišić*, *Prlić et al.*, *Šešelj*, *Stanišić and Župljanin*, and *Karadžić*) from the last reporting period have had to be amended, although in all but one of the cases the amendment to the estimate for the completion of the trial is only a matter of a couple of months. These delays are the result of unforeseen factors not immediately within the Tribunal's control and are detailed later in this report. It must be emphasized that the trial schedule produced by the Tribunal is estimated by reference to factors identified as falling within the Tribunal's control; however, there are important influences upon the trial schedule that are not within the Tribunal's control. To give but one example, earlier this year, the national authorities of Serbia discovered new evidence that is relevant to several of the Tribunal's cases, namely 18 military notebooks of Ratko Mladić allegedly written during the period from 1991 to 1995. The recent discovery of this new evidence could not have been foreseen when trial estimates were generated.

[2] Enclosure V.
[3] Enclosure II.1; *see also* Enclosure VII.
[4] Enclosure II.2; *see also* Enclosure VII.
[5] Enclosure III.2; *see also* Enclosure VII.

6. The estimation of the length of trial proceedings is more an art than a science, and the assessments that are always made prior to the commencement of a trial are by their very nature approximations. For example, the Trial Chamber in the *Karadžić* case, in assessing the time it would take to complete the trial, considered it a fair assessment to allocate to *Karadžić* the same time for cross-examination of witnesses as the time taken for examination-in-chief. However, the unprecedented volume of written material tendered through these witnesses has necessitated a significant increase in the time allotted to *Karadžić* for cross-examination, and this could not have been anticipated at an early stage of the proceedings. This is the nature of trials, particularly trials of the complexity that are heard at the Tribunal.

7. During the reporting period, two appeal judgements were rendered, and appeals from three trial judgements are currently pending before the Appeals Chamber. All appeals are still scheduled to be completed by the end of 2014, although the recent, unavoidable delays in the *Karadžić* case suggest that that date has become exceedingly optimistic and will have to be reassessed at an appropriate time.[6] However, the Trial Chamber is taking measures to alleviate that slippage as much as possible, and the Appeals Chamber is exploring ways in which it may expedite the appeal to keep the case within the 2014 estimate. The Judges of the Appeals Chamber also continued to work at maximum capacity on appeals from the International Criminal Tribunal for Rwanda.

8. The pace of the Tribunal's trials and appeals continued to be affected by staffing shortages and the loss of highly experienced staff members. Without measures being taken to retain the Tribunal's highly experienced staff, delays on this basis will continue.

9. The Tribunal has transferred all low- and mid-level accused from its trial docket in accordance with Security Council resolution 1503 (2003). The Prosecutor, with the assistance of the Organization for Security and Cooperation in Europe (OSCE), continued to monitor the progress of referred proceedings still ongoing in the region.

10. The bench constituted to handle requests for confidential information for use in national proceedings continued to function in an efficient manner, rendering nine decisions during the reporting period.

11. Contempt of the Tribunal continues to pose serious challenges, and the Tribunal handled several contempt cases during the reporting period. The investigation, trial and appeal of contempt allegations sap the finite resources of the Tribunal. Nevertheless, attempts to frustrate the administration of justice must be dealt with in an efficient and effective manner in order to safeguard the integrity of the core proceedings of the International Tribunal for the Former Yugoslavia. The Tribunal is taking all possible measures to limit the impact of contempt allegations on the conduct of its core proceedings, but where the alleged effect of the contempt is to prevent witnesses from appearing before the Tribunal, the continuation of those core proceedings may nevertheless be substantially hindered.

[6] Enclosure VIII.

II. Measures taken to implement the Completion Strategy

12. Despite the many challenges faced during the reporting period, the Trial and Appeals Chambers continued to take all measures within their power to expedite their proceedings, while still fully respecting the rights of the accused. An appreciation of the steps taken by the Trial and Appeals Chambers to guarantee that proceedings are conducted in a fair and expeditious manner is best gained through an understanding of the context of each case. Accordingly, the following contains a brief summary of the cases currently before the Tribunal, as well as the solutions adopted to meet the specific challenges they have raised.

A. Pretrial proceedings

13. On 21 July 2010, the Appeals Chamber, in the case of *Prosecutor v. Ramush Haradinaj et al.*, quashed the Trial Chamber's decision to acquit the accused on certain counts of the indictment and ordered that they be retried on these counts. At the first status conference, held on 23 September 2010, the Prosecution indicated that it would be in a position to file its Rule 65 ter list of witnesses and exhibits and its pretrial brief by 30 November 2010. The pretrial judge has set deadlines for the completion of a number of other key steps in the preparation of the retrial, including the filing of the defence pretrial brief and a joint statement on what has been agreed between the parties. The pretrial judge urged the parties to present any evidence already adduced in the initial trial as expeditiously as possible in the partial retrial. It is estimated that the partial retrial will start at the earliest late in January or early in February 2011 and that it will last seven months, with judgement being delivered late in August or early in September 2011. It must be stressed that these estimates are very approximate at this stage.

B. Trial proceedings

14. The multi-accused case of *Prosecutor v. Vujadin Popovic et al.* has now been completed. As anticipated in the last report, the judgement was delivered on 10 June 2010. Each of the seven accused was found guilty on several of the counts, and the sentences ranged from five years' to life imprisonment.[7]

15. In the case of *Prosecutor v. Vlastimir Đorđević*, the accused is charged with crimes committed in 14 municipalities in Kosovo between January and June 1999, including the deportation of over 800,000, and mass killings of over 900, Kosovo Albanians. These crimes form the basis for the five counts of crimes against humanity and violations of the laws or customs of war alleged in the indictment. By virtue of careful management of the proceedings and strong encouragement to the parties to drop witnesses who were not essential, the presentation of defence evidence was concluded on 20 May 2010, which was earlier than previously anticipated. Final submissions of the parties were completed on 14 July 2010. The original estimate for the delivery of judgement was 31 December 2010. However, it now seems unlikely that this date will be met. This is because the original estimate did not appreciate the amount of time that would be taken by the other two judges in the *Đorđević* case on other cases. One of those judges, Judge Flügge, presides over

[7] Enclosure I.I.

the *Tolimir* case, while the other judge, Judge Baird, sits on the *Karadžić* case. The commitment of these judges to these other cases has hindered the scheduling of deliberations, which has caused delays in judgement drafting. Furthermore, the original estimate of completion by December 2010 was made by reference to a complement of five experienced staff members. Unfortunately, due to staff attrition and demands of other trials, the staff assigned to the *Đorđević* team has been depleted to just under two experienced staff, in addition to one new permanent staff member and one temporary staff member. The loss of experienced staff members has had a detrimental impact upon the pace of the judgement drafting process.

16. Judge Parker, a permanent judge of the Tribunal and the presiding judge of this case, is taking all measures to complete the judgement as expeditiously as possible, but it is not possible to guarantee that judgement will be delivered prior to the expiration of Judge Parker's mandate, on 31 December 2010. Accordingly, the Security Council will be requested to extend the mandate of Judge Parker beyond December 2010 to allow for the orderly completion of the *Đorđević* case. The Tribunal will not seek a replacement for Judge Parker in accordance with the overall downsizing of the Tribunal in line with the Completion Strategy.

17. Notably, had Đorđević been transferred earlier to the custody of the Tribunal, he could have been tried with his co-accused in the *Milutinović et al.* trial. However, he is now being tried alone in a separate case.

18. The case of *Prosecutor v. Ante Gotovina et al.* — with three accused — involves nine counts of crimes against humanity and violations of the laws or customs of war allegedly committed against the Serb population in 14 municipalities in the southern portion of the Krajina region in the Republic of Croatia in 1995. This is the first trial before the Tribunal involving crimes allegedly committed against the Serb population in Croatia. The last witness in the case was heard in June 2010, and the parties submitted their final briefs on 16 July 2010. The Chamber heard the final arguments on 30 August and 1 September 2010. The Chamber is currently deliberating. Throughout the trial, there has been extensive litigation regarding unfulfilled Prosecution requests for production of documents by Croatia. In July 2010, the Chamber denied the Prosecution's request for an order against Croatia in this respect. In December 2009, criminal investigations in Croatia led to arrests and searches of members of the Gotovina defence team, which created a series of challenges related to the fair and expeditious conduct of the proceedings. The Chamber's decision was appealed, and a decision by the Appeals Chamber is pending, which could, depending upon the outcome, result in delays. These matters have absorbed a great deal of resources on the part of the parties and the Chamber. Finally, since the beginning of 2009, two of the judges and members of the legal support staff have been engaged in another case (Presiding Judge Orie and Judge Gwaunza on *Stanišić and Simatović*), which has allowed both trials to move forward, but which has also resulted in resources being diverted from the *Gotovina et al.* trial. The judgement is tentatively anticipated to be delivered in March 2011.

19. It will be necessary for the Tribunal to seek an extension of the terms of resolution 1877 (2009) in order to extend the terms of office of Judge Ķinis beyond December 2010, so that he may complete his assignment to this case

20. In the trial of *Prosecutor v. Momčilo Perišić*, the accused is charged with 13 counts in relation to crimes against humanity and violations of the laws or customs of war allegedly committed in Sarajevo, Zagreb and Srebrenica. Since the

last reporting period, the estimate for the completion of this trial has increased by approximately six months. Although the Prosecution case was smaller than anticipated in terms of witnesses called to give evidence, in terms of calendar months it took longer because of scheduling problems and the late admission of a substantial number of documents. In response, the Trial Chamber reduced the number of hours for the defence case and has been sitting as much as possible in order to complete the case as expeditiously as possible. The Prosecution received several military notebooks of Ratko Mladić, following fresh investigations by national authorities. Considering the late stage of the trial, this new evidence necessitated an adjournment of the proceedings of more than two months while the materials were translated so that the defence could reassess its case before deciding how to proceed. In addition, the defence has encountered difficulties in scheduling its witnesses, which has — despite frequent interventions by the Chamber — at times led to adjournments in the proceedings. One Judge is assigned to the *Stanišić and Simatović* case, and the Presiding Judge has recently been assigned to preside over the retrial of *Haradinaj et al.* The current expectation is that the judgement will be delivered by June 2011. An additional risk in reaching this target is a current motion from the Prosecution to reopen its case to admit materials from the Mladić diaries.

21. In the case of *Prosecutor v. Jovica Stanišić and Franko Simatović*, the two accused are charged with four counts of crimes against humanity and one count of war crimes. The factors that were described in the previous report and that were the cause of previous delays — the relatively new Simatović defence team and the health of Stanišić — continue to affect the scheduling of this case. During the reporting period, the Chamber has been sitting two days per week, which has created problems with witness scheduling and has on a few occasions meant that the Chamber has been forced to cancel court hearings because, with a two-day court schedule, the possibility of having "stand by" witnesses in The Hague is much more limited. When a witness takes more than two days to testify, the Chamber has on short notice scheduled additional sittings in order to facilitate the witness's early return and to compensate for lost time. The Chamber and its legal support staff continue to conduct this case in parallel with other cases (Presiding Judge Orie and Judge Gwaunza on *Gotovina et al.* and Judge Picard on *Perišić*) by means of rigorous management of the court calendar. Currently, the case only has three legal support staff assigned to it full-time, and the remainder of the staff provide legal support to the judges in this trial in addition to their support to judges in other cases. The Chamber has recently decided to increase the sitting days from two to three days from the end of October 2010 onward. Further increases in sitting days are not possible at this stage due to, inter alia, the court schedule in the *Perišić* case in which Judge Picard is sitting. It is still anticipated that, as a result of the passing away of the previous counsel for Simatović, the defence will have to be given additional time to prepare the defence case after the close of the Prosecution case-in-chief. Provided that the current pace of the trial is maintained, the judgement is scheduled to be issued in June 2012, although, due to the factors described above — in particular the health of the accused — this assessment is tentative.

22. The case of *Prosecutor v. Jadranko Prlić et al.* — with six accused — is an exceptionally complicated trial, involving 26 counts of war crimes and crimes against humanity, related to approximately 70 crime sites, allegedly committed by Bosnian Croats against Bosnian Muslims in Bosnia and Herzegovina from

18 November 1991 to about April 1994. In addition to the hearings in court, the tremendous amount of out-of-court work generated by this case is borne out by the court record: since the start of the trial, the Chamber has dealt with more than 500 written motions and to date has issued 684 written decisions. Some of these motions have been exceedingly complicated, including requests for the admission of 735 adjudicated facts and the admission of more than 5,000 exhibits from the bar table. The Chamber has issued several written and oral decisions on oral motions for the admission of evidence through 208 *viva voce* witnesses. The Trial Chamber has analysed 236 written statements for admission pursuant to rule 92 bis. To date, 9,862 exhibits have been admitted into evidence.

23. In May 2010, the Trial Chamber declared the defence stage of the proceedings to be closed. In July 2010, Prlić filed a motion to disqualify one of the judges from the trial bench and a request to adjourn the proceedings until the motion had been decided. In September 2010, the Trial Chamber temporarily stayed the proceedings. In October 2010, the President dismissed the motion for disqualification, and the Trial Chamber resumed the proceedings and issued several decisions that had been pending. A number of complex motions have also delayed the trial. Praljak moved the Trial Chamber to admit more than 150 written witness statements in lieu of oral testimony, a matter that went up on appeal and took 13 months to resolve. In summer 2010, the Prosecution filed a motion to reopen its case due to the discovery of the Mladić notebooks; this motion was granted, and four defence teams have now, in response, filed motions to reopen their own cases. In these circumstances, the Trial Chamber has estimated a delay in the trial of about five months and will probably not be able to hear closing arguments by the end of the year.

24. Presiding Judge Antonetti is also serving as the Presiding Judge in the *Šešelj* trial, and Judge Mindua sits on the bench in *Tolimir*. Moreover, the high staff turnover has had an impact on the work of the Chamber. Since the beginning of the trial, there have been four different P-5 Senior Legal Officers assigned to the case in succession, as well as two different P-4 Legal Officers, and four different P-3 Legal Officers. Currently, the legal support team has five P-2 Associate Legal Officers, two of whom have less than three months' experience with the case. The constant staff attrition in this trial impacts the time needed for the Chamber to decide the numerous motions filed by the parties, as well as upon the time required for analysis of the evidence and preparation of the final judgement. It is anticipated that the judgement will be delivered in February 2012.

25. In the case of *Prosecutor v. Vojislav Šešelj*, who is defending himself, the accused is charged with nine counts of crimes against humanity and violations of the laws or customs of war allegedly committed in the territory of Croatia, in large parts of Bosnia and Herzegovina, and in Vojvodina (Serbia) from August 1991 until September 1993. The first witness called by the Prosecution was heard on 11 December 2007. After 11 months of suspension (from February to December 2009) due to the allegations of witness intimidation against a number of witnesses, the Trial Chamber decided on 23 November 2009 to resume the trial on 12 January 2010. The Trial Chamber has admitted a sizeable amount of evidence of otherwise unavailable witnesses in writing in order to expedite the proceedings. Since the trial began in November 2007, the Trial Chamber has issued approximately 370 written decisions and approximately 90 oral decisions (including 48 decisions between May and September 2010). The Trial Chamber decided on 29 June 2010 to deal with Šešelj's contempt motion against the Prosecution, rather than leaving this to the end

of the trial. It is in this context that the Trial Chamber ordered the Registry to appoint an amicus curiae to investigate whether there was reason to believe that contempt had been committed by certain members of the Prosecution. This investigation will be held in parallel to the main case, in order to avoid delay.

26. The Trial Chamber is currently seized of recent Prosecution motions for the hearing of additional evidence from witnesses who already testified or were considered unavailable to testify due to serious health problems. These motions are under consideration by the Trial Chamber and might have an impact upon the progress of the case. If these motions are granted, the Trial Chamber may not be able to schedule the Rule 98 bis hearing before, at the earliest, January 2011. It is extremely difficult for the Trial Chamber at this stage to indicate when it will be able to finish the case, because it depends upon the number of witnesses Šešelj seeks to call and the estimated length of his case. Thus far, Šešelj has indicated that he needs two years to prepare for his case, unless he is provided with funds for his defence, which so far has been denied by the Registrar who asserts that Šešelj has not cooperated and offered the necessary information about his financial status and therefore has not been found to be indigent. The Trial Chamber is currently considering this issue very seriously and will do everything in its power to solve it. These problems linked to the funding of Šešelj's defence team and to the issue of his health have a direct impact upon the trial schedule. The trial schedule may also be affected by the length of the pending contempt proceedings against the Prosecution (raised by Šešelj in 2007) and against Šešelj (raised by the Prosecution regarding Šešelj's books).

27. It must also be highlighted that the team of lawyers assisting the Trial Chamber on the *Šešelj* case is understaffed: at the beginning of the case, the team was composed of seven staff members; due to significant turnover in the staff working upon the case, the team is currently composed of only four staff members, two of whom have less than three months of experience with the case and within the Tribunal. This adversely impacts upon the work of the Trial Chamber as a whole, in particular on the rate of determining and disposing of motions and of analysing of evidence. This case is also impacted by the translation delays, since the Trial Chamber is working with three languages (Bosnian/Croatian/Serbian, English, and French). The estimate for the delivery of the judgement is June 2012, but this can only be considered tentative.

28. In the case of *Prosecutor v. Mićo Stanišić and Stojan Župljanin*, the accused are charged with 10 counts of crimes against humanity and violations of laws or customs of war for crimes allegedly committed in concert with other members of a joint criminal enterprise against Bosnian Muslims and Bosnian Croats in Bosnia and Herzegovina between 1 April and 31 December 1992. The geographical scope of the indictment in this case is wide-ranging, involving a similar number of municipalities to the *Karadžić* trial. The trial started on 14 September 2009 and has now been under way for 14 months. The Chamber has sat continuously five days per week, with only minor interruptions, when, for example, witnesses had to be rescheduled or were unavailable at short notice. The current estimate for the completion of this trial has been increased by a further three months. The extension of time has been necessary to permit the Prosecution to call 44 additional witnesses to testify on matters that the Chamber found did not qualify for admission as adjudicated facts. The Chamber has closely regulated the addition of these witnesses and has minimized the additional time needed by reducing the number of witnesses sought

to be called by nearly 20 per cent and restricting the time available for presentation of their evidence by approximately 15 per cent. The Chamber continues to regulate the length of the proceedings through the admission of written evidence and the acceptance of nearly 1,500 adjudicated facts from prior cases. The time savings from such measures are significant, although difficult to quantify. The use of Rule 92 ter witness statements has also resulted in time savings, but many witnesses are still required to testify partly in-chief, as their prior testimony does not include evidence directly relevant to the accused in this case.

29. All parties continue to raise multiple and complex procedural issues, and motions continue to be filed by all parties at a significant rate. The Chamber has disposed of many of the outstanding motions, but is still hampered by the low level of staffing for a case of this size and complexity.

30. Until recently, the Prosecution case has been expected to close by the winter adjournment, after 15 months; however, the Chamber in September granted a Prosecution motion to add relevant parts of the military notebooks of Ratko Mladić to its list of potential exhibits, the originals of which were only provided to the Prosecution in May 2010. Although the Trial Chamber has substantially reduced the volume of material potentially available for admission in the trial, a significant volume of related materials has recently been disclosed to the defence, which is now entitled, in the interests of a fair trial, to have additional time to examine the new material and to prepare accordingly. The examination of the one remaining expert witness called by the Prosecution has therefore been postponed until after the winter adjournment. The close of the Prosecution case may also be affected by the outcome of pending applications to admit the evidence of 12 additional witnesses in written form pursuant to Rule 92 bis and the outcome of ongoing discussions between the parties to reach agreement upon certain facts.

31. Information is still emerging as to the scope of the defence case, and a pre-defence conference will be scheduled once the Prosecution case has closed. The Trial Chamber currently projects that, despite the additional time needed for the Prosecution case, the presentation of evidence by the defence can be completed by the end of 2011, with closing arguments early in 2012. The judgement is then expected to be delivered in September 2012.

32. In the case of *Prosecutor v. Radovan Karadžić*, the accused — the former President of Republika Srpska — is charged with 11 counts of genocide, crimes against humanity, and violations of the laws or customs of war in Sarajevo, Srebrenica, and 20 municipalities throughout Bosnia and Herzegovina. Due to circumstances previously reported upon, the hearing of evidence at trial was delayed and commenced only in mid-April 2010. During the early stages of the hearing of evidence, the Chamber advised Karadžić on a number of occasions that he was not conducting his cross-examination of witnesses called by the Prosecution in an efficient or reasonable manner. Thus, in June 2010, the Chamber found it necessary to start imposing time limits upon Karadžić for his cross-examination of each witness. While the imposition of time limits has resulted in a reduction of the overall time spent in court, the Chamber has also acknowledged that Karadžić needs significantly more time for the cross-examination of each witness than the time used by the Prosecution in its examination-in-chief because almost every witness is led pursuant to Rule 92 ter, through which voluminous written evidence is introduced. In addition, ongoing disclosure violations by the Prosecution, along with the receipt

of new evidence from the Republic of Serbia, have caused short suspensions in the proceedings during the reporting period. The progress of the trial was the subject of discussion at a status conference held in September 2010, during which ways to expedite the proceedings were discussed with the parties. After that status conference, the Chamber decided that, as of November 2010, it would sit for extended sittings of 45 additional minutes per day, whenever possible.

33. Like other ongoing trials and in light of the breadth of the case, the legal team assigned to the *Karadžić* Chamber is understaffed. This staffing shortage will continue to impact the time required to deal with the ongoing motions and practical issues arising during the course of the trial and to conduct the necessary analysis of evidence. Since the start of the proceedings, the Trial Chamber has coped with a significant out-of-court workload, dealing with approximately 290 motions and issuing 250 written decisions. Already, more than 2,450 documents have been admitted into evidence, and judicial notice of approximately 2,300 adjudicated facts has been taken. Furthermore, as already mentioned, the vast majority of the witnesses called by the Prosecution are being brought pursuant to Rule 92 ter. Although Rule 92 ter constitutes an in-court time-saving measure by which a written statement is submitted in place of *viva voce* testimony before the witness is cross-examined, the Chamber must analyse the written evidence, which in some cases is hundreds of pages, a circumstance that may add to the time necessary for the preparation of the judgement. The latest estimate for the completion of this trial is December 2013.

34. In the case of *Prosecutor v. Zdravko Tolimir*, the accused is charged with eight counts — including charges of genocide, murder, extermination and forcible transfer — arising from events at over 20 crime sites. The trial continues to progress steadily, despite the commitments of Presiding Judge Flügge in *Đorđević* and Judge Mindua in *Prlić et al.* and delays arising from the choice of the accused to represent himself. During the reporting period, the Trial Chamber steadily increased the frequency of its sittings. The Trial Chamber sat two days each week until the end of May 2010 because of the commitments of the judges in other trials and the level of occupancy of courtrooms. With the completion of the evidentiary phase of the *Đorđević* case, the Trial Chamber sat three days each week from the beginning of June until the beginning of the summer recess. Since the summer recess, the Trial Chamber has been sitting four days each week. In deciding to increase the weekly sitting time, the Trial Chamber took into account the availability of two additional staff to the defence team of Tolimir, which was made possible by a decision of the Registry on 5 July 2010. On 7 July 2010, the Trial Chamber issued a decision on the admission of evidence, in which it ordered that the evidence of 47 witnesses be admitted with cross-examination. This allowed a more precise estimate of the length of the remainder of the Prosecution case-in-chief, which is now expected to be completed by about the end of April 2011. It had been anticipated that the trial would last 24 months, with the judgement being delivered by the end of February 2012, but, as a consequence of the issuance of the decision on the evidence of 47 witnesses, the trial is now anticipated to last 27 months with judgement being delivered by the end of May 2012. Towards the end of October, the Prosecution provided a new estimate for the length of its case-in-chief. This estimate is being analysed; as a result, a further increase in the estimate of the length of the trial may be justified.

35. Notably, had Tolimir been transferred earlier to the custody of the Tribunal, he could have been tried with his co-accused in the *Popović et al.* trial. However, he is now being tried alone in a separate case.

36. An event that has had — and may continue to have — a potential impact on several of the ongoing trials, including the *Karadžić*, *Stanišić and Župljanin*, *Stanišić and Simatović*, *Šešelj*, and *Prlić et al.* trials, is the recent transfer to the Tribunal of 18 notebooks apparently written by Ratko Mladić — the Commander of the Main Staff of the Bosnian Serb Army — during 1991 to 1995. The potential impact could include the introduction of additional evidence, the reopening of completed cases and the recall of witnesses who have already finished their evidence, thus leading to further delays in the trials and subsequent appeals.

37. An even more significant event that has had an adverse impact upon the trial and appeal schedule is constant staff attrition, which is discussed more comprehensively later in this report.

C. Contempt proceedings

38. The Tribunal's administration of justice continued to be disrupted by contempt allegations; however, the Tribunal is taking what measures it can to ensure that all contempt cases are concluded as quickly as possible and without disrupting the ongoing trial processes.

39. The case of *Prosecutor v. Shefqet Kabashi* is still pending the accused's arrest and transfer to The Hague.

40. In the case of *Prosecutor v. Vojislav Šešelj*, the accused is charged with contempt of the Tribunal for knowingly disclosing in one of his books the identifying information of 11 protected witnesses. At a further initial appearance on 6 May 2010, Šešelj, who is representing himself, refused to enter a plea, and so a plea of not guilty was entered on his behalf. On 27 April 2010, Šešelj filed a motion for disqualification of two of the judges assigned to the trial bench. On 22 June 2010, the President issued a decision on the motion for disqualification finding that it was without merit, but nevertheless designated a bench of three judges to consider the motion in the light of Appeals Chamber jurisprudence. Šešelj also moved for the disqualification of one of the judges assigned to this three-judge panel, but this motion was dismissed by the President on 7 October 2010 as also being without merit. The decision of the three-judge panel on the main disqualification motion is still pending. The pretrial phase will move forward when the decision on this motion has been issued. Because of the suspension of pretrial activities resulting from this pending motion, the trial has been pushed back somewhat. It is expected that the judgement will be delivered early next year.

41. In the case of *Prosecutor v. Jelena Rasić*, the accused faces five counts of contempt of the Tribunal arising out of allegations of procuring false witness statements for use by the defence in the *Lukić and Lukić* case. The indictment was confirmed on 26 August 2010, and the accused was transferred to the Tribunal shortly thereafter. The initial appearance was held on 22 September 2010, at which

time the accused entered a plea of not guilty to all counts. Preparations for trial are under way.[8]

42. Florence Hartmann has challenged her conviction for contempt of the Tribunal for disclosing information related to the *Slobodan Milošević* case in violation of orders of a Chamber. Hartmann's appeal is under active consideration of the Appeals Chamber, and a judgement will be rendered in due course.

D. Appeal proceedings

43. During the reporting period, two appeal judgements were rendered. Appeals from three trial judgements — concerning 13 persons — are currently pending before the Appeals Chamber.[9]

44. On 19 May 2010, the Appeals Chamber rendered its judgement in the appeal of *Prosecutor v. Ljube Boškoski and Johan Tarčulovski*. The appeal judgement in the *Ramush Haradinaj et al.* case, concerning three persons, was delivered on 19 July 2010. Both judgements had been tentatively projected for delivery in February 2010, but had to be extended due to staff attrition, which necessitated the recomposition and reduction of the legal support teams assisting the judges of the Appeals Chamber. This situation was exacerbated when the primary drafter in the *Boškoski and Tarčulovski* case was required to support additional cases, while judgement drafting continued at a slower pace.

45. Following the death of Rasim Delić on 16 April 2010, the Appeals Chamber formally terminated the appeal proceedings in the *Prosecutor v. Rasim Delić* case and declared the trial judgement to be final.

46. In the *Prosecutor v. Nikola Šainović et al.* case, all five persons convicted at trial have filed an appeal, and the Prosecution has appealed as well. Due to the size of the case, a number of time extensions were granted in order to safeguard the fairness of the proceedings. Although the main bulk of the briefing was completed in February 2010, supplementary submissions continue to be filed following amendments of the grounds of appeal, admission of additional evidence on appeal, or acceptance of amicus curiae briefs. Translation of the trial judgement (the largest ever) into Bosnian/Croatian/Serbian has been delayed and, instead of April 2010, was completed on 13 September 2010. The defence currently has the possibility to seek amendments of their existing grounds of appeal, following the analysis of the Trial Judgement in a language understood by the convicted persons, which means that the oral arguments of the parties cannot be heard by the Appeals Chamber until these motions are filed and decided upon and the consequent supplementary briefing is completed, where applicable. The number of staff assigned to support this case is reflective of its size and complexity. However, serious difficulties have already been encountered in relation to continuous changes in the composition of the legal support staff due to attrition, including staff with supervisory responsibilities (four changes among P3-P5 team members in the course of 2010), and use of short-term temporary contracts. Five of the eight team members joined the case this year and are at various stages of integration and training — not only with respect to the specifics of this case, but also to the working methods of the Appeals Chamber.

[8] Enclosure III.1.

[9] Enclosure VIII.

Furthermore, one P-3 team member was assigned supervisory and drafting responsibilities in the *Lukić and Lukić* case in order to assist this drafting team, in addition to her functions in the *Šainović et al.* case. In the light of all this, it is now anticipated that the appeal hearing can be scheduled only for summer 2011, with the appeal judgement to be delivered in spring or early summer 2012.

47. In the *Prosecutor v. Milan Lukić and Sredoje Lukić* case, the projected time frame for delivery of the appeal judgement has been adjusted by three months from the last reporting period to reflect March 2011 (rather than December 2010). The replacement of Milan Lukić's lead counsel resulted in the briefing stage being finalized only on 22 February 2010, three weeks late. This, along with some slowing of the drafting progress due to staff turnover, resulted in the delay. Furthermore, the translation of the trial judgement into Bosnian/Croatian/Serbian was not completed until 5 October 2010, and the defence had requested that a hearing be delayed in order to provide the convicted persons with an opportunity to request an amendment of the notice of appeal after having read the judgement in a language they understand. In order to facilitate the drafting process, two additional staff members have been reassigned to assist with this case. However, they continue to perform vital tasks in other cases. The appeal hearing is tentatively planned for early 2011.

48. In the *Prosecutor v. Veselin Šljivančanin* case, the Appeals Chamber granted on 14 July 2010 the motion of Šljivančanin in which he requested review of the *Mrkšić and Šljivančanin* appeal judgement. A review hearing in this case was held on 12 October 2010, and a judgement on review will be issued in due course.

49. In the *Prosecutor v. Vujadin Popović et al.* case, five of the seven persons convicted at trial have filed an appeal, and the Prosecution has appealed as well. Due to the size of the case, an extension was granted for the briefing schedule in order to safeguard the fairness of the proceedings. It is therefore anticipated that the briefing will be completed in May 2011.

50. During the reporting period, the International Criminal Tribunal for Rwanda Appeals Chamber delivered two appeal judgements, in the *Rukundo* and *Kalimanzira* cases. Two more appeal judgements are expected to be delivered by the end of this year.[10]

51. In order to proactively address case slippage in the Appeals Chamber, contributing factors have been identified, and the means to prevent or minimize their impact are being implemented wherever practicable. There are five factors with the most potential to cause slippage in projected estimates for completion of judgements on appeal. First and foremost is understaffing and/or lack of experience in appeals support. The other factors responsible for the delays are the nature of multi-appellant cases; the inordinate amount of pre-appeal motions; the inordinate length of time for translation of trial judgements into Bosnian/Croatian/Serbian, as well as for translation of written submissions into one of the Tribunal's working languages and Bosnian/Croatian/Serbian, especially in cases of self-represented appellants; and amendments to grounds of appeal, especially following translation of the trial judgement (mainly for represented appellants).

52. Delays associated with understaffing and/or lack of experience in appeals support have led to the creation of a redeployment plan in order to project the

[10] Enclosure IX.

number and levels of staff needed for appeals through 2014. However, redeployment of staff from completed trials to ongoing trials — rather than to appeals — is the immediate priority, and the resultant understaffing in appeals will probably remain until mid-2011. To offset the lack of staff members who are experienced in appeals support, those few who possess substantial experience are being — and will continue to be — apportioned among teams and cases to prevent any situation in which the support is exclusively provided by inexperienced staff.

53. Multi-appellant cases, themselves the outgrowth of time-saving joinder decisions, are by nature more complex than single-appellant cases. The Tribunal deals with the delays associated with such complexity by allocating appropriate numbers of staff, including several persons with coordinating responsibilities, and, where appropriate, by organizing judgement drafting according to subject matter rather than individual appeals in order to avoid repetitive tasks and analysis.

54. The inordinate amount of pre-appeal motions, which can only be expected to increase as litigation intensifies, calls for the prioritization of urgent matters over substantive drafting where appropriate, especially those motions with a potentially serious impact upon the preparation of the case for the appeal hearings. Multiple team members, as opposed to solely the pre-appeal judge's associate legal officer, are assigned to work upon the motions, contributing to both timely draft preparation and input from the team members dealing with the relevant substantive matters.

55. The length of translation times, especially in cases of self-represented appellants, calls for greater explanation than suitable for a report of this size, but it can be said that efforts are under way to more effectively liaise with the Conference and Language Services Section on a continual basis in order to assess progress and determine the need for requesting prioritization of specific translations and to readdress the internal requirement of the Section that the revision process for translation of a judgement must be accomplished as a whole, rather than a volume-by-volume basis, which would allow for gradual release of translated portions.

56. Regarding amendments to grounds of appeal, especially following translation of the trial judgement, a judicial remedy exists to limit amendments related to the late service of the translated trial judgements to questions of fact, on the basis that counsel could have identified all potential legal errors from review of judgement in the original language. This is a matter resting in the sole purview of each individual appeal panel to determine, taking into account the circumstances of the case and the interests of justice.

57. Proceedings in respect of 125 of the total 161 persons indicted by the Tribunal have been completed. Only two indictees — Ratko Mladić and Goran Hadžić — remain to be brought to justice, and their apprehension depends upon the cooperation of the international community. The achievements of the Tribunal far surpass that of any other international or hybrid court, both in respect of the number of persons tried and its contribution to international criminal law, and demonstrate the Tribunal's commitment to the expeditious and efficient completion of its mandate.

E. Access decisions

58. The bench constituted to decide requests for access to confidential information for use in national proceedings under Rule 75 (H) continued to function in an efficient manner, rendering nine decisions during the reporting period.

III. Retention of staff

59. As the Tribunal nears the end of its mandate, highly qualified and essential staff continue to leave the Tribunal at alarming rates for more secure employment elsewhere. Moreover, the Tribunal is in a downsizing phase at a time when it is at its highest level of productivity, with no coordinate increase in its staffing levels since the 2006-2007 biennium. The Tribunal needs the assistance of the Member States to stem this tide of departures. The loss of the Tribunal's experienced staff has significantly slowed trial and appellate proceedings, placed an onerous burden on the Tribunal's remaining experienced staff, and will place a much heavier financial burden on the international community in the long run.

60. The Security Council responded to the pleas of the Tribunal for assistance by adapting resolution 1931 (2010) in June 2010, which noted the importance of the Tribunal being adequately staffed to complete its work expeditiously and called upon the Secretariat and other relevant United Nations bodies to continue to work with the Registrar of the Tribunal in order to find practicable solutions to address this issue as the Tribunal approaches the completion of its work. In the meantime, the Tribunal is still appealing for action to be taken, as it continues to lose its highly experienced and essential staff and as the expeditiousness of proceedings continues to suffer from delays that could be avoided through urgent action by the international community to devise incentives encouraging staff to remain with the Tribunal until they are no longer needed.

61. In December 2008, the General Assembly adopted resolution 63/256, which authorized the Tribunal to offer contracts to staff in line with planned post reductions and the prevailing trial schedules. However, despite the clear language and intention of the resolution, it has not been implemented because the budgetary authorities at United Nations Headquarters consider the Tribunal incapable of offering contracts to staff that are not tied to the envelope of funds.

62. Consequently, in June 2010, the Staff-Management Coordination Committee, a body comprising the Office of Human Resources Management, the Staff Unions, and United Nations administrators, made two recommendations regarding the Tribunals, which were approved by the Deputy Secretary-General, on behalf of the Secretary-General, on 31 August 2010. One of those recommendations, recommendation 18, provided:

> With regard to continuing appointments for the staff in the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, it was noted that the General Assembly has already provided solutions to the aforementioned tribunals in its resolutions 63/256 and 64/239, which requested the Secretary-General to utilize existing contractual frameworks to assist in the retention of staff. In this regard, it was recommended that all staff of the aforementioned tribunals be given two-year fixed-term appointments, subject to another extension of two years,

> Termination of such appointments will be administered in accordance with the provisions of annex 3 to the Staff Regulations.

63. Following consultation at New York Headquarters in October 2010, the Office of Human Resources Management clarified that, despite the inconsistency with General Assembly resolution 63/256, it was fully within the authority of the Registrar of the Tribunal to issue contracts to the Tribunal's staff for a period of two years regardless of approved budgetary funds and that the purpose of the recommendation was to provide an incentive to all staff by way of an indemnity payment under the staff rules when the contracts were terminated prior to the expiration of the two-year contract. The Office clarified that such indemnity had to be covered by the Tribunal's existing resources and that no request for additional funding to cover indemnity payments could be made.

64. However, despite this clear advice from the Office of Human Resources Management, the report of the Advisory Committee on Administrative and Budgetary Questions of 22 October 2010 (A/65/537), in paragraph 51, albeit in the context of providing continuing contracts to peacekeeping staff, stated that:

> The Committee does not believe that it is appropriate to introduce long-term contractual arrangements with the main purpose of enabling termination indemnities for local staff who have been employed for a specific field mission. If the Secretary-General considers termination payments to be important for the good functioning of the missions, he should make a proposal in this connection with input from the International Civil Service Commission, including associated financial implications.

65. This contradiction between the policy of the Advisory Committee on Administrative and Budgetary Questions and the advice of the Office of Human Resources Management creates fundamental difficulties for the administration of the Tribunal and its Registrar. On the one hand, the Registrar is encouraged by the Office of Human Resources Management to issue longer contracts for the purpose of paying staff indemnities and, on the other, it is the clear statement of the Advisory Committee on Administrative and Budgetary Questions that it is not appropriate for longer contracts to be issued for the sole purpose of paying indemnities.

66. The other recommendation of the Staff-Management Coordination Committee, recommendation 19, provided that "management will consider eligible Tribunal staff for conversion to a permanent appointment on a priority basis". However, following consultations in October 2010 with the Office of Human Resources Management, the Tribunal has been informed, somewhat surprisingly, that its list of recommendations for which of its staff members should be considered for conversion to permanent contracts had been sent to a central review body because the Office did not agree with any of the Tribunal's recommendations. The Office of Human Resources Management stated that this review could take a significant amount of time because the central review body was the same body that dealt with recruitments, which take priority. Consequently, the Office has confirmed that, despite the clear wording of this recommendation, Tribunal staff will not be given priority treatment in consideration for conversion to permanent contracts.

67. In sum, despite the many efforts made by the Tribunal to secure some measures to stem the tide of its alarming rate of attrition, and despite the support for

such efforts by the Security Council, as evidenced by resolution 1931 (2010), to date nothing has been achieved. Consequently, it should come as no surprise that the Tribunal continues to lose its highly experienced and qualified staff and that the expeditious completion of its work continues to suffer greatly.

68. The Tribunal therefore renews its plea for the international community to exercise foresight and assist the Tribunal with incentive measures to retain its staff and reduce the drain upon the institution's resources of constant staff recruitment. The longer this problem continues, the longer the work of the Tribunal will be extended, and the more money it will cost the international community in the long run.

IV. Referral of cases

69. Between 2005 and 2007, the Tribunal referred a total of eight cases, involving 13 accused of intermediate or lower rank, to national jurisdictions in accordance with Security Council resolutions 1503 (2003) and 1534 (2004). This significantly reduced the overall workload of the Tribunal, making it possible to bring the cases of the most senior leaders to trial as early as possible. The referral of these cases to national jurisdictions also served to forge the Tribunal's relationship with national judiciaries in the former Yugoslavia and to strengthen the capacity of those jurisdictions in the prosecution and trial of violations of international humanitarian law.

70. The decisions upon referral of cases were made by a specially appointed Referral Bench, followed by appeals against the referral decisions in some cases. As a result, 10 accused were transferred to Bosnia and Herzegovina, two to Croatia, and one to Serbia. Requests for the referral of four accused were denied due to the alleged level of responsibility and the gravity of the crimes charged, requiring that these cases be heard before the Tribunal. Possibilities for referrals were maximized. Accordingly, no cases eligible for referral according to the seniority criteria set by the Security Council remain before the Tribunal.

71. Of the 13 persons transferred to national jurisdictions, proceedings against 11 have been concluded. Proceedings against two accused are still under way. Milorad Trbić was convicted in the first instance and sentenced to 30 years of imprisonment, and appeal proceedings are currently pending. Vladimir Kovačević has been deemed unfit to stand trial, pending any change in his mental health status. The Prosecution continues to monitor the ongoing cases with the assistance of OSCE.

V. Outreach

72. The Outreach Programme sustained its strong engagement in the region of the former Yugoslavia and continued providing objective information about the Tribunal and its work to stakeholders in the region. Field offices in Sarajevo, Belgrade, Zagreb and Priština maintained their efforts to bring the Tribunal's work closer to local communities. Outreach continued to speak directly to young generations with presentations to bring the Tribunal closer to hundreds of students in 15 high schools across Kosovo. Across the region, Outreach representatives organized presentations

about the Tribunal for a variety of audiences, most notably students and members of civil society.

73. Outreach facilitated a variety of activities aimed at capacity-building of the local judiciaries to adjudicate war crimes cases, most notably through peer-to-peer exchanges between the judges of the Tribunal and judges from the region engaged in war crimes proceedings. The sessions were coordinated to complement the current capacity-building "War Crimes Justice Project", organized by the Tribunal jointly with the OSCE Office for Democratic Institutions and Human Rights and the United Nations Interregional Crime and Justice Research Institute. Apart from the judiciary, the largest numbers of visitors were students and journalists. Such visits are valuable opportunities for the Tribunal to engage in dialogue with others and to foster an understanding of its work.

74. For the last two years, the Tribunal's revamped multilingual website remains one of the most valuable tools for Outreach. The audience levels remain high, with 25 per cent of the visitors to the website coming from the former Yugoslavia. In September, the Tribunal launched its presence on "Twitter" and "YouTube" in an effort to reach out to a younger audience.

75. The Tribunal's Outreach Programme remains responsive to the constantly changing circumstances in which the Tribunal works. Outreach's approach is continually assessed and improved as the completion of the Tribunal's mandate approaches, in order to ensure that the Tribunal's legacy is cemented in the region. These efforts will continue to require substantial support from external donors, including the continued support from Outreach's most important contributor, the European Commission.

VI. Victims and witnesses

76. More than 5,700 witnesses from all over the world have been called to appear before the Tribunal. Most witnesses come from diverse and remote locations within the former Yugoslavia. It should never be forgotten that, without the courage of these witnesses to step forward and give evidence, there would be no trials and impunity would reign. Yet many witnesses have experienced a range of difficulties resulting from their decision to give evidence before the Tribunal, and this is in addition to the suffering and loss they have had to endure during the conflicts in the region. The Tribunal's resources are simply incapable of meeting these needs. In the absence of any restitution or compensation programme, or specific budget for the provision of basic living essentials, the Victims and Witnesses Section endeavours to negotiate and encourage assistance to vulnerable witnesses via voluntary State contributions. However, this resource is very limited.

77. Victims of the conflict of the former Yugoslavia have a right to compensation in international law for the crimes committed against them. In previous reports, the Security Council has been urged to consider the legal bases for such compensation — namely the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power adopted by the General Assembly — and the Tribunal has asked the Security Council to breathe life into paragraph 13 of the Declaration, which states:

> The establishment, strengthening and expansion of national funds for compensation to victims should be encouraged. Where appropriate, other funds may also be established for this purpose, including in those cases where the State of which the victim is a national is not in a position to compensate the victim for the harm.[11]

78. The Tribunal has received a wellspring of positive responses to this initiative from the victims of the atrocities that were committed during the destructive dissolution of the former Yugoslavia during the 1990s. On behalf of the victims, an appeal is again made to the Security Council to take action to implement paragraph 13 of the Declaration. The failure to properly address this issue constitutes a serious failing in the administration of justice to the victims of the former Yugoslavia. The Tribunal cannot, through the rendering of its judgements alone, bring peace and reconciliation to the region: other remedies should complement the criminal trials if lasting peace is to be achieved, and one such remedy should be adequate reparations to the victims for their suffering.[12]

VII. Cooperation of States

79. It again must be reported that Ratko Mladić and Goran Hadžić remain at large. It is noted, however, that there is general agreement among members of the Security Council that there will be no impunity, regardless of when these remaining fugitives are apprehended. All States, especially those of the former Yugoslavia, are asked to intensify their efforts and to deliver these fugitives to the Tribunal as a matter of urgency.

VIII. Residual mechanism

80. On 21 May 2009, the Secretary-General published his report on the administrative and budgetary aspects of the options for possible locations for the archives of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda and the seat of the residual mechanism(s) for the Tribunals (S/2009/258). On 8 October 2009, the Secretary-General advised the Tribunal of the Security Council's endorsement of the recommendations and requested that the Tribunal comply with recommendation (m) in paragraph 259 and report, in detail, upon the Tribunal's implementation of the tasks identified under recommendation (l) in paragraph 259.

81. Each of the recommendations of the Secretary-General in paragraph 259 (l) is addressed below in turn.

> *(i) Referral of further cases (where possible and appropriate) to national jurisdictions, and in this regard, the further strengthening of the capacity of the affected countries;*

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[11] Resolution 40/34, 29 November 1985.

[12] The General Assembly has found that victims have the right to "[a]dequate, effective and prompt reparation for harm suffered". Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (resolution 60/147, 16 December 2005, annex, para. 11).

The Tribunal does not anticipate any further referrals of cases to the region; however, the Tribunal's commitment to assisting the capacity of the affected countries to prosecute breaches of international humanitarian law remains steadfast and is being intensified as part of the Tribunal's legacy strategy. Further details of these efforts are reported below in the section on legacy and capacity-building.

(ii) Consideration of possible ways to review witness protection orders and decisions with a view to withdrawing or varying those that are no longer necessary:

As part of a comprehensive review of the possibility of lifting confidentiality of court records, the Tribunal has implemented a plan to review records of closed proceedings. The review includes identifying all protected witnesses and the associated protective measures in relation to them; identifying the need for amendments (if any) to the Tribunal's Rules of Procedure and Evidence to vary protective measures where such action may be appropriate; and making recommendations regarding each protected witness as to whether it is feasible and/or advisable to attempt to re-contact the witness to determine whether variance of the previous protective orders is appropriate.

(iii) Implementation of an approved records retention policy in order to identify archives for permanent preservation, duplicate records for disposal, administrative records eligible for disposal in situ, *and administrative records with continuing value for transfer to the Archives and Records Management Section:*

The Tribunal's Archivist, in conjunction with the Archives and Records Management Section and the Joint Tribunals Archival Strategy Working Group, is establishing a system to identify and review International Criminal Tribunal for the Former Yugoslavia records for archiving purposes. More information is provided under section (vi) below.

(iv) Preparation of all digital records for future migration into the record-keeping systems of the residual mechanism(s):

Upon approval from the Headquarters Committee on Contracts on 28 October 2009, the Tribunal entered into a contract with Memnon Archiving Services on 19 November 2009 to digitize the complete collection of audio-visual recordings of court proceedings. Having completed the preparatory and testing phases, Memnon is now digitizing the recordings on an industrial scale. Approximately half of the entire 60,000-hour backlog has now been digitized. The completion date for this phase of the project is the end of 2010. Memnon is contracted to perform ongoing digitization services throughout 2011 and 2012, should the Tribunal wish to make use of this optional extension.

The archivist, in conjunction with the relevant organs of the Tribunal, will also identify and prepare for transfer the digital records that should be migrated into the record-keeping systems of the residual mechanism or sent to United Nations Headquarters for archiving.

(v) Preparation of all hard-copy archives and inventories for transfer to the residual mechanism(s):

The archivist, in conjunction with the various organs of the Tribunal, is establishing a means to identify the hard-copy records that should be included in this type of

information transfer. This prodigious project involves the creation of schedules of hard-copy records to be included in the archives, as well as the identification of those that should not, or cannot, be included. Once there is a schedule of these records, they will be prepared in the most efficient format for eventual transfer to the residual mechanism.

(vi) Development, in collaboration with the United Nations Secretariat, of a regime to govern the management of, and access to, the Tribunal's archives, including for the continued protection of confidential information provided by individuals, States and other entities under Rule 70 of the Tribunal's Rules:

The Tribunal is undertaking an extensive programme of work to produce a comprehensive records retention policy for Tribunal records. This work comprises an analysis of Tribunal functions and activities to identify the records that are produced and an appraisal of the value of these records from the perspective of the Tribunal itself, its successor institutions, and a wide range of other stakeholders. The resulting records retention policy will define which records have permanent value and will be preserved as Tribunal archives and which have only temporary value and will be destroyed after an appropriate period of time.

In undertaking this comprehensive records analysis, the Tribunal's Archives and Records Management Unit is liaising with both the International Criminal Tribunal for Rwanda (which is undertaking a similar programme of work) and with the Archives and Records Management Section, which has been tasked with producing a consolidated records retention schedule for both Tribunals. Consistent with this approach, the head of the Archives and Records Management Unit has been on mission to the Archives and Records Management Section for working-level discussions on many issues, including the development of the records retention policy. These discussions are ongoing via regular teleconferences between the head of the Archives and Records Management Unit and her counterpart at the Archives and Records Management Section (the Tribunals' jointly funded Information Management Officer), who is coordinating and supporting the programmes of work in both Tribunals.

The ongoing programme of work has included assessment of security and access issues for individual classes of records, and the resulting records retention schedule will specify information security classifications for all classes of records. The duration of the classification will also be specified. This approach has been agreed with the Archives and Records Management Section. It is currently anticipated that the analysis may be completed by the end of 2010.

With respect to the continued protection of information contained in the trial record provided to the Tribunal by third parties (such as States) under the confidentiality provisions of Rules 54 bis and 70, the President has constituted a senior-level working group to prepare a strategy, which is being further discussed with the Archives and Records Management Section.

(vii) Development and implementation of an information security strategy that includes the appropriate (de)classification of all records and archives:

As referred to in section (ii) above, on 16 September 2009, the President approved a plan to begin a review of case records with a view to determining whether they could be declassified and whether witness protection measures could be varied. The Chief of the Court Management Services Section was appointed as the Focal Point

for Declassification and charged with implementing the plan. The first declassification "Pilot Team", using the case of *Prosecutor v. Duško Tadić* as a test case, created terms of reference and methodologies for the review of the various types of confidential materials, such as transcripts, exhibits, motions, decisions, and orders. On 10 September 2010, the terms of reference and methodologies were transmitted to the Office of Legal Affairs at United Nations Headquarters, along with a cost-benefit analysis of conducting the declassification project at this stage in the Tribunal's life. Following clarification from the Security Council, this declassification project will not continue after completion of the *Tadić* case.

As detailed in sections (iii) and (vi) above, the Tribunal is establishing, in conjunction with the Archives and Records Management Section and the Joint Tribunals Archival Strategy Working Group, a records retention policy for non-judicial records throughout the Tribunal in order to ensure that the records retention schedule represents an internally consistent plan that meets the Section's standards. Individual schedules are amended on an ongoing basis to include new categories of documents and to reflect changes in record-keeping practices; the schedules are also applied to both active records held in offices and inactive records held in the storage vaults. An important part of this systematic assessment is the requirement of information security: where a document is designated as "confidential" or "strictly confidential", the rationale and duration for such a classification will be recorded.

As discussed in section (vi) above, Rule 70 and Rule 54 bis materials will be handled by a specially designated working group.

(viii) Review of all agreements with States and other international bodies, and contracts with private entities, to determine whether there are any that should not continue in force after the closure of the Tribunal;

A project to compile all agreements with States and other international bodies signed to date by the Tribunal is under way. All agreements will be reviewed to determine whether there are any that do not need to remain in force when the residual mechanism starts functioning. Consideration will be given to whether there are any that need to be amended to ensure their continuity beyond the closure of the Tribunal. All security contracts with private entities will be reviewed prior to the closure of the Tribunal with the intention to discontinue such contracts upon closure, and security contracts required to support the residual mechanism will need to be renegotiated in line with the scope and size of its security requirements.

The General Services Section, together with Procurement, has been planning service and supply contracts with private entities for some time in accordance with the downsizing and upcoming closure of the Tribunal. No such contracts are currently planned to extend beyond the expected closure date. The Tribunal has, where possible, taken optional extensions to give flexibility to continue with required services depending upon operational requirements. This includes the Tribunal's building leases. Utilities contracts have similarly been negotiated with optional extensions and built-in flexibility.

(ix) Examination of the feasibility of establishing information centres in the affected countries to give access to copies of the public records or the most important parts;

On 22 September 2009, the Head of Chambers was appointed to carry out this feasibility study. On 19 October 2009, she conducted a mission to the region of the former Yugoslavia, consulting with Government officials, legal professionals, non-governmental organizations, scholars, victims' groups and others. On 11 January 2010, her report on that mission was sent to the Security Council for its consideration, and, on 23 March 2010, the Secretary-General transmitted the report to the President of the Security Council for distribution to Council members. The report concluded that the response to the idea of establishing information centres in the region was positive, but that national officials expected to see a concrete proposal upon the creation of such centres before making any commitment of support.

Accordingly, during the reporting period, the President established the Informal Consultative Working Group on the Establishment of Information Centres in the Region of the former Yugoslavia, made up of national officials from the region. United Nations Development Programme representatives from each of the countries of the region and a representative from the United Nations Interregional Crime and Justice Research Institute were invited to participate in the Informal Consultative Working Group as observers. The purpose of the Working Group is to enable national authorities to better determine whether they consider it desirable for an information centre to be established on their territories and, if so, to develop a vision of the composition of such centres, which will be further developed and modified through consultations with civil society in the region.

On 30 September 2010, the first meeting of the Informal Consultative Working Group was held in Brdo, Slovenia. The meeting, which was co-organized with and hosted by the Government of Slovenia, proved critical to enabling the Tribunal to gauge the interest of the respective Governments of the region in establishing information centres on their territories. It also allowed the Working Group to identify concrete steps that will need to be taken to bring the initiative to fruition. Among these, the Working Group agreed that by mid-November the Tribunal would prepare a concrete project proposal on the establishment of information centres, which would be distributed to members of the Working Group for comments. The Tribunal's Outreach staff from liaison offices in the region will facilitate consultations on the proposal with non-governmental organizations in their respective areas. Thereafter, in February or March 2011, the Informal Consultative Working Group will reconvene to finalize the proposal and discuss options for soliciting funding for the project, including the organization of a donors' conference.

IX. Legacy and capacity-building

82. On 28 September 2010, the Tribunal, the Democratic Institutions and Human Rights, and the United Nations Interregional Crime and Justice Research Institute officially launched the joint 18-month "War Crimes Justice Project" in Belgrade, Serbia. The purpose of the project is to facilitate the transfer of the Tribunal's unique institutional knowledge and specialized skills to jurisdictions in the region and to ensure that those jurisdictions have access to the Tribunal's relevant materials in a useable form. The 4 million euro project was made possible through the generous funding of the European Union. The Tribunal is directly implementing three components of the project, including the transcription of designated Tribunal

proceedings into the local languages of the region, the translation of the Tribunal's Appeals Chamber Case Law Research Tool into Bosnian/Croatian/Serbian, and the training of legal professionals upon how to access and research the Tribunal's records. To date, over 8,500 pages of transcripts have been completed, in response to urgent requests from national jurisdictions in the region. In addition, translation of the ACCLRT is well under way.

83. The Tribunal is also lending its expertise to project components administered by OSCE, including the development of curricula on international humanitarian law tailored to each jurisdiction's legal framework and the publication of a manual incorporating the most effective practices used by defence counsel before the Tribunal, as well as a range of professional development activities such as peer-to-peer meetings of judges, prosecutors and investigators and training of victim and witness support staff. The first peer-to-peer meeting of judges sponsored by the project was held directly after the launch and was between judges of the Tribunal and judges from jurisdictions throughout the region.

84. As a means of ensuring the transfer of its expertise and access to its records to Albanian-speaking counterparts in the region, the Tribunal has also approached potential donors with a proposal for the production of relevant transcripts in the Albanian language, as well as the translation into Albanian of the Tribunal's Manual on Developed Practices, which was produced by the Tribunal in cooperation with the United Nations Interregional Crime and Justice Research Institute and which provides a comprehensive description of the operating practices that have developed at the Tribunal since its inception.

85. The Tribunal's judges continue to pursue meetings with their counterparts from the region as the preferred method of interaction, previous experiences having shown that such joint working sessions are deemed highly useful by judges on both sides. In this regard, during the reporting period, in addition to the peer-to-peer meeting of judges from across the region that took place in Belgrade, Tribunal judges held discussions with colleagues visiting the Tribunal from the High Court and the Appellate Court in Belgrade, Serbia.

X. Conclusion

86. This report demonstrates the Tribunal's steadfast commitment to the expeditious conduct of its proceedings in full compliance with due process standards. The delays in estimated completion dates are attributable to factors beyond the Tribunal's control. As much as possible, the Tribunal has undertaken measures to minimize the impact of delays.

87. Staff attrition has contributed significantly to slippage in practically all cases at the Tribunal. The need for measures to assist in retaining staff at this very critical juncture in the Tribunal's life cannot be overstressed. The previous reports have repeatedly brought this need to the attention of the Security Council. As this report shows, the high rate of attrition results in either inexperienced or insufficient staff, leading to longer time being taken for the proceedings. If this problem is not addressed, the situation will worsen and slippage will continue to thwart the implementation of the Completion Strategy.

88. The Tribunal has successfully brought to trial those accused of serious violations of international humanitarian law, thus sending a clear and unequivocal message that impunity for such offences will not be tolerated. By balancing this objective with a keen attentiveness to the rights of the accused, the Tribunal has helped to fortify the rule of law in the former Yugoslavia and in the wider global community. Towards this end, all States are urged to adopt all possible measures to secure the immediate apprehension of the two remaining fugitives — Ratko Mladić and Goran Hadžić. The Tribunal also encourages the Security Council to support the judicial institutions in the region in continuing the work initiated by the Tribunal and the Council.

89. The Security Council's continued support is essential to the expeditious completion of the Tribunal's mandate in a manner that is consistent with the highest possible standards of international criminal justice. This support is also critical to the proper management of the necessary residual functions by an appropriate body once the Tribunal has completed its core mandate.

Annex II

Report of Serge Brammertz, Prosecutor of the International Tribunal for the Former Yugoslavia, provided to the Security Council under paragraph 6 of Security Council resolution 1534 (2004)

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I. Introduction

1. The Prosecutor submits this fourteenth completion strategy report pursuant to Security Council resolution 1534 (2004).

2. In the present reporting period, the Office of the Prosecutor had four main priorities. First, the Office of the Prosecutor remains committed to the expeditious completion of trials and appeals, while at the same time ensuring that the interests of justice are not adversely affected. The Office of the Prosecutor has utilized all available measures for expediting the presentation of its evidence in court and otherwise streamlining its procedures. Through the flexible allocation of its resources, the Office has so far been able to present its cases at trial and on appeal as required notwithstanding staff attrition.

3. Second, one of the foremost priorities of the Office of the Prosecutor is the arrest of the two remaining fugitives, Ratko Mladić and Goran Hadžić. Their arrest and transfer to The Hague for trial is essential to ensure justice for victims and the successful completion of the mandate of the International Tribunal for the Former Yugoslavia more generally.

4. Thirdly, the Office of the Prosecutor continues to strengthen its partnerships with counterparts in the region of the former Yugoslavia. Building capacity for domestic systems to continue establishing accountability for crimes committed during the conflict is essential.

5. Finally, the Office of the Prosecutor is focused on closing the Office in an efficient and considered manner. This involves ensuring that downsizing takes place in a fair and transparent way. It also involves ensuring that institutional knowledge and lessons learned are collected and recorded as part of the Tribunal's legacy.

II. The completion of trials and appeals

A. Measures taken to expedite the presentation of evidence in court

6. During the reporting period, the Office of the Prosecutor continued to employ all reasonable measures for expediting trials without adversely affecting the overall interests of justice. The Office has developed a consistent methodology across the cases for streamlining the presentation of evidence in court. Key aspects of this methodology include, to the maximum extent feasible, the following measures: working with Defence counsel towards agreement on background, historical, or other suitable facts to reduce time spent on proving such matters in court; working together with Defence counsel to identify areas of agreement and dispute regarding documents prior to presenting the evidence, thereby reducing the amount of time spent discussing these matters in court; requesting judicial notice of adjudicated facts from other proceedings under Rule 94 (B); seeking admission of witness evidence in written form under Rule 92 bis (without cross-examination where appropriate) and Rule 92 ter to reduce the court time required for witness testimony; tendering documents from the bar table to avoid the lengthy procedure of tendering documents through witnesses; asking witnesses to review documents in advance of their testimony and then tendering their observations in a written chart or in Rule 92 ter statements; and requesting extended sittings or extra sessions to finish scheduled witnesses, thereby avoiding the cost and delay associated with keeping the witnesses in The Hague over the weekend or requiring them to return at a later date.

7. When accepted by the Trial Chambers, these procedures have resulted in significant savings in court time. In particular, as described below, in the *Perišić* and *Stanišić and Simatović* cases, the Office of the Prosecutor has concluded, or is concluding, its evidence-in-chief in substantially less time than originally forecast due to the effective use of these procedures.

B. Measures taken to ensure efficient use of the *Mladić* materials

8. In February 2010, Serb authorities located the wartime notebooks kept by Ratko Mladić and associated tapes (Mladić materials). Their transfer to the Office of the Prosecutor was an important and positive development for the proceedings of the International Tribunal for the Former Yugoslavia.

9. The Office of the Prosecutor gave priority to devising strategies that would minimize any delay associated with the material. In particular, the Office established a task force to ensure that all issues related to the Mladić materials were handled uniformly and expeditiously. The Office of the Prosecutor allocated all available resources to processing the materials. In total, Office staff transcribed 3,731 pages of materials in three months to facilitate the work of the translation service and review by Defence teams. The materials were processed expeditiously, notwithstanding the difficulties caused by the fragile condition of some of the notebooks and the need to carefully preserve the evidence.

10. The Office of the Prosecutor also centralized disclosure of the materials to Defence teams and provided disclosure on a rolling basis. The electronic disclosure system was updated regularly with English translations and transcripts. In some cases, materials were disclosed the day after translations were completed.

Particularly in cases that were at an advanced stage, the Office of the Prosecutor limited the volume of material tendered into evidence to only the most critically relevant items.

11. As described further below, as a result of these efforts, the Office of the Prosecutor has been able to make use of this key evidence while minimizing the delays associated with tendering the Mladić materials in ongoing cases.

C. Effective management of resources

12. The Prosecution has successfully absorbed unexpected extra work arising out of trial and appeal proceedings in an efficient and cost-neutral manner through the flexible management of its existing resources. Whenever staff members in the Trial Division had extra capacity due to the status of their trial schedule, they were assigned to assist on other short-term projects within the Office. Similarly, staff in the Appeals Division have assumed responsibility for conducting the retrial ordered by the Appeals Chamber in the *Haradinaj* case (see further below), the *Rašić* contempt trial (see further below) and the *Šljivančanin* review proceedings (see further below) in addition to their regular appellate work.

13. The departure of Office of the Prosecutor staff to take up other employment opportunities prior to the completion of their assigned trials has become an increasingly frequent problem. Nevertheless, so far, the Office of the Prosecutor has been able to meet all of its obligations because remaining staff have taken on substantial additional responsibilities and added extensive overtime to already demanding work schedules. Staff attrition (including in some cases the departure of senior trial attorneys leading teams) has made it significantly more difficult for the Office of the Prosecutor to meet its obligations in *Gotovina et al.*, *Perišić*, *Prlić et al.* and *Stanišić and Simatović*. The loss of key trial team members in the critical final stages of our cases imposes greater burdens to ensure the effective preparation of final briefs and the presentation of evidence.

14. The Office of the Prosecutor has taken measures to minimize the impact of attrition on productivity within the Office. For example, the Office has adopted strategies for minimizing the time taken to recruit staff against vacant positions, including creating rosters of qualified candidates who can be selected rapidly for future vacancies.

15. The Office of the Prosecutor will continue to find pragmatic solutions to resource problems where possible. However, given that staff members are already working beyond reasonable limits, any further major strain on resources would present a significant challenge.

D. Update on the progress of trials

1. Đorđević

16. The presentation of evidence and final arguments in this case have now been completed and the Trial Chamber is preparing its judgement. The parties filed their final trial briefs on 30 June 2010 and presented their closing arguments on 13 and 14 July 2010.

2. Gotovina et al.

17. The trial in this case has now been completed and the Trial Chamber is preparing its judgement. The presentation of the evidence concluded on 10 June 2010. As foreshadowed in the last report, the Prosecution called its final three witnesses between 2 and 3 June, and Čermak called two witnesses in rebuttal on 10 June. The parties filed their final trial briefs on 16 July 2010 and presented closing arguments between 30 August and 1 September 2010.

18. The final phase of the case was conducted expeditiously with the five final witnesses concluding their evidence in just three days. In addition, the parties filed their final briefs for this two-and-a-half-year trial less than five weeks after the close of evidence. The speed of the trial was further facilitated by the fact that the Trial Chamber proceeded to hear the Prosecution's further evidence and Čermak's rebuttal evidence pending the Appeals Chamber's ruling on the Trial Chamber's decision to allow the Prosecution to reopen its case. Consequently, on 1 July 2010, when the Appeals Chamber affirmed the Trial Chamber's decision, all of the relevant evidence had already been heard.

19. This case has been characterized by resource-intensive parallel litigation under Rule 54 bis concerning the Prosecution's requests for documents from Croatia that have not been forthcoming (see further below). The Trial Chamber rendered its decision pursuant to Rule 54 bis on 26 July 2010. The Prosecution managed the litigation within the deadlines set by the Chamber. Staff on the trial team dealt simultaneously with the main trial and the Rule 54 bis proceedings so as to meet all the Prosecution's obligations within the confines of existing resources.

3. Karadžić

20. Since April 2010, the trial in this case has been proceeding without significant interruptions. The Prosecution uses a small proportion of court time for presenting its witnesses. For example, "crime-base"[1] witnesses take, on average, 30 minutes to present their evidence and lengthier "international"[2] witnesses present their evidence within two to four hours. The limited time taken by Prosecution witnesses in court is possible due to the Prosecution's extensive pre-court work in preparing the witnesses' evidence in written form. According to statistics published by the Trial Chamber, in the period from 13 April until 30 September 2010, the Prosecution used only 20.6 per cent of total court time, notwithstanding the fact that it was presenting its case-in-chief. Karadžić used 71.7 per cent, and the Trial Chamber used 7.7 per cent (for questioning witnesses as well as procedural and administrative matters).

21. The Prosecution is on schedule to conclude the presentation of its case-in-chief within the 300 hours the Trial Chamber allocated. However, the overall time estimate for completion of the trial has increased, due primarily to the time taken in court by Karadžić in cross-examination. Based on the current situation, the Prosecution's case will be completed between the end of December 2011 and mid-April 2012.

[1] Witnesses, often victim witnesses, who testify solely or predominantly about the crimes committed.

[2] Witnesses from other countries who worked in the region of the former Yugoslavia during the war, often as personnel for international bodies.

22. Karadžić's self-representation presents challenges to the expeditious conduct of the proceedings. In particular, Karadžić has chosen to personally conduct all pre-testimony interviews with Prosecution witnesses. Scheduling these interviews with Karadžić in the United Nations Detention Unit is difficult and limits the Chamber's capacity to schedule more court sessions. In addition, as reflected in the statistics given above, Karadžić's cross-examination of witnesses tends to be lengthier than would be expected of assigned legal counsel. The Trial Chamber has taken measures aimed at addressing these problems. For example, since June 2010, the Trial Chamber has imposed some time limits on Karadžić's cross-examinations, but he still takes considerable time. Further, a counsel appointed in November 2009 continues to function as standby counsel to minimize the risk of any further improper delays associated with the fact that Karadžić represents himself in the proceedings.

23. Notwithstanding the unpredictable length of Karadžić's cross-examinations, the Prosecution has managed to avoid delays in scheduling witness testimony.

24. A short delay in this case resulted from admission of the Mladić materials. The Prosecution tendered into evidence 20 of Mladić's notebooks in their entirety, after which Karadžić was granted a two-week adjournment to review the materials. Another short delay resulted from disclosure of a large volume of materials seized by the authorities of Serbia from the premises of a former VJ General. Karadžić was granted six court days to review the materials.

25. In addition, on 3 November 2010, the Trial Chamber adjourned the proceedings for one month primarily to permit Karadžić to review over 14,000 pages of material disclosed to him in October 2010. The materials formed part of an evidence collection obtained by the Prosecution earlier in 2010. The disclosed materials came from electronic files on a computer hard drive that had been deleted and a complex process of recovering and reconstructing the files was carried out to enable disclosure of the material to Karadžić in a useable format. The Prosecution takes its disclosure obligations very seriously and is employing all practical measures to ensure that its responsibilities are met.

4 Perišić

26. This trial is now in the final stages of the Defence case, with approximately four witnesses remaining, including one witness for whom written statements will be admitted in lieu of oral testimony pursuant to Rule 92 bis. The Prosecution anticipates calling one rebuttal witness whose evidence will be concluded in less than one day. The parties will submit their final trial briefs before the winter recess in December 2010, and the trial team is taking every possible step to ensure that it meets the remaining deadlines, notwithstanding critical shortages of staff. Final submissions will likely take place after the winter recess.

27. The Prosecution concluded the presentation of its case-in-chief in 167 hours — a major achievement, as this was less than half the time originally estimated (355 hours).

28. The Prosecution has tendered, and the Chamber has admitted, excerpts from Mladić's notebooks. The trial was delayed for two months between April and June 2010 so that that the notebooks could be translated and analysed.

29. Another source of delay during the trial was difficulty with scheduling Prosecution and Defence witnesses due to limitations on their availability.

5. *Prlić et al.*

30. The evidentiary phase of this case — the last of the three largest multi-accused cases — is nearing completion. No evidentiary hearings have been held since 1 April 2010. The delay has resulted in substantial part from litigation concerning Praljak's request to submit voluminous witness testimony pursuant to Rule 92 bis, including an appeal that was determined by the Appeals Chamber in early July 2010. Delay also resulted from a motion by Prlić, dated 30 August 2010, to disqualify one of the judges in the case. The motion was rejected on 4 October 2010, but the trial was stayed pending the resolution of the disqualification request. An additional matter was the consideration of whether to admit a very small amount of *Mladić* material tendered by the Prosecution, a matter that was decided on 6 October 2010.

31. Admission of the *Mladić* materials has not significantly delayed the trial, as other matters were pending at the same time. Cognizant of the advanced stage of the proceedings, the Prosecution moved quickly to tender only the most highly relevant materials, comprising six brief excerpts from the notebooks and two written witness statements. The Defence teams have been permitted to tender excerpts from the *Mladić* materials in rebuttal of the very limited excerpts tendered by the Prosecution. All related pleadings have now been filed, and the Trial Chamber's decision on the admission of the Defence excerpts is pending. One of the Accused has asked to give a limited amount of viva voce testimony in response to the admitted *Mladić* material that, if granted, should not take more than two court days.

32. Subject to a pending appeal, the final trial briefs are currently scheduled to be filed on 13 December 2010, and the Office of the Prosecutor will continue to take all necessary steps to ensure that it complies with the imposed deadline.

6. *Šešelj*

33. This trial is nearing the conclusion of the Prosecution's case. Prior to closing its case, the Prosecution is awaiting decisions on evidence-related motions, including requests to call witnesses to demonstrate the unreliability of statements from witnesses who have drastically changed their evidence and refuse to testify against the accused. The allegations were made by witnesses who were originally Prosecution witnesses, subsequently stated they wished to testify as witnesses for Šešelj and, ultimately, were called as Trial Chamber witnesses.

34. No hearings, other than periodic administrative hearings, have been held since 7 July 2010. Prior to scheduling the Rule 98 bis hearing to determine whether Šešelj has a case to answer, a number of issues must be resolved. First, there are 14 motions pending before the Trial Chamber, including the one referred to above regarding additional Prosecution witnesses. Second, a report on Šešelj's health must be completed by three medical experts, pursuant to the Trial Chamber's order of 19 October 2010. The Trial Chamber has allowed two months for the experts to complete the report. Third, an analysis of Mladić's notebooks by a handwriting expert must be completed, pursuant to the Trial Chamber's order of 22 October 2010. The Trial Chamber ordered that the analysis be completed by 15 December 2010. (The Prosecution has moved to tender 13 excerpts from the *Mladić* materials and two related witness statements.)

35. The trial team has complied with all court ordered deadlines, and exhibits have been kept to a minimum to ensure that the Prosecution's case proceeds as quickly as possible.

36. Additional delays have resulted from the fact that large numbers of witnesses have been unwilling to testify, reflecting a systemic problem. Some of the witnesses have ultimately been declared unavailable. The inability to secure their testimony is detrimental to the interests of justice. Delays have also resulted from the fact that Šešelj continues to represent himself and that his conduct in court is not focused in the manner that would be expected of assigned legal counsel.

7. *Stanišić and Simatović*

37. This trial is proceeding without any significant delays and is now in the final phase of the Prosecution case. To date, the Prosecution has used approximately 20 per cent less time than originally estimated for its case-in-chief. Based on the current situation, the Prosecution should complete its case by the end of February 2011.

38. The Trial Chamber has announced that it may increase the number of sitting days per week due to Stanišić's improved health. In general, the Trial Chamber has been willing to hold extra hearings to avoid inconvenience to witnesses and to keep the trial running on schedule. This has greatly facilitated the efficient conduct of the trial.

39. To date, the introduction of the *Mladić* materials has not caused delays.

8. *Stanišić and Župljanin*

40. The Prosecution's case-in-chief is nearly completed. The Prosecution expects to conclude with all but one of its witnesses by the first week in December. The remaining witness is a military expert who is scheduled to testify in January 2011. The Trial Chamber has allowed the Defence additional time to prepare for this witness, taking into account the recently seized Mladić materials. Based on current circumstances, the Prosecution believes that all of the evidence will be concluded by September 2011.

41. As a result of the Trial Chamber's decision to deny or modify adjudicated facts that had been previously approved, the Prosecution has been permitted to call 44 additional witnesses. The Prosecution has eliminated the need to call 10 other witnesses as a result of facts agreed with the Defence. Significant time savings have also resulted from agreement between the Prosecution and Defence on a "law library" consisting of relevant laws, regulations and constitutional provisions in effect during the time period of the indictment that both parties agreed were authentic and relevant.

9. *Tolimir*

42. The Prosecution continues to present its case-in-chief and has 82 witnesses remaining. Based on the current situation, the Prosecution estimates that it will complete its case by about November 2011. This takes into account the Trial Chamber's 7 July 2010 ruling requiring 47 of the Prosecution's Rule 92 bis witnesses to attend for cross-examination.

43. Notwithstanding that Tolimir is representing himself, the case is proceeding under the Trial Chamber's guidance without any significant interruptions. The case has moved from sitting two to three days a week to a four-day sitting schedule, which has enabled faster progress.

44. The Mladić materials have been provided to the Defence without delaying the proceedings. None of the materials have yet been tendered into evidence.

10 *Haradinaj et al.* (retrial)

45. In a judgement rendered on 21 July 2010, the Appeals Chamber partially allowed the Prosecution's appeal and ordered a retrial of the three co-accused in relation to six of the 37 counts on which the first trial proceeded.

46. The Prosecution is ensuring an efficient use of its resources by taking a focused approach to the retrial. This involves being selective about the witnesses and exhibits for the trial and working to reach agreement with the Defence on as many issues as reasonably possible. The Prosecution anticipates that its case-in-chief will be concluded within two months of the start of the trial, a date that has not yet been set.

47. The Prosecution is also facilitating the expeditious conduct of the pretrial phase of the case. The Prosecution has proposed short deadlines for filing its list of witnesses and pretrial brief, which the Trial Chamber has adopted.

E. Update on the progress of appeals

48. The Prosecution's work on appeals has proceeded expeditiously during the reporting period and the Prosecution has not delayed the progress of the cases to completion of the appeal phase.

49. During the reporting period, the Appeals Chamber dismissed the appeal of Rasim Delić as a consequence of his death on 16 April 2010. The trial judgement is therefore final. The Prosecution withdrew its appeal following Delić's death.

50. Appeals filings are complete in the *Milan Lukić* and *Sredoje Lukić* case and the *Šainović et al.* case, the first multi-accused case to reach the appeals stage. The Prosecution awaits the oral hearings. The *Lukić and Lukić* oral hearing has been indicated for February 2011.

51. Notices of appeal in the second of the largest multi-accused cases, *Popović et al.*, have been filed, and the appeals briefing process is well under way. All appeals filings for this case will be completed in the next reporting period.

52. On 14 July 2010, the Appeals Chamber granted Šljivančanin's request to review the 5 May 2009 appeal judgement convicting him for aiding and abetting murder and raising his sentence from five years' to 17 years' imprisonment. On 12 October 2010, the Appeals Chamber heard evidence and arguments. Written submissions were completed by 1 November, and the Appeals Chamber's decision is now pending.

F. Contempt cases

1. *Jelena Rašić*

53. The Prosecution filed an indictment against Rašić on 9 July 2010. Under Rule 77, the Prosecution can only investigate and prosecute a contempt matter at the direction of a Chamber. Rašić, formerly the case manager for the Milan Lukić Defence team, is charged with five counts of contempt of the Tribunal for attempting to generate false witness testimony for the benefit of Milan Lukić. She had her initial appearance on 22 September 2010. On 12 November 2010, Rašić was granted provisional release. Arrangements to appoint permanent counsel for Rašić are currently being finalized.

54. The Prosecution is ready to proceed and is awaiting the appointment of counsel to Rašić. The Prosecution proposes to expedite the proceedings by using all reasonable measures under the Rules of Procedure and Evidence to reduce the need for oral testimony in the presentation of its case.

2. *Vojislav Šešelj*

55. The *Šešelj* case has generated multiple contempt proceedings, including two contempt indictments against Šešelj for publishing confidential witness information. Šešelj was convicted based on the first indictment, and the second contempt trial is postponed awaiting the decision on Šešelj's 13 April 2010 motion alleging that two judges of the Trial Chamber are biased. In addition, an amicus Prosecutor has been appointed to investigate Šešelj's contempt allegations against Office of the Prosecutor staff. These matters have resulted in significant additional work for the Office. Although these contempt matters are the responsibility of appointed amici, the Prosecution is required to carry out evidentiary analysis, compile documents and communicate with the amici Prosecutors as appropriate. Further, Šešelj has failed to remove protected material from his website in violation of an order by the Appeals Chamber, which requires continual monitoring to ensure the protection of witnesses.

G. Rule 75 (H) proceedings

56. During the reporting period, the Office of the Prosecutor responded to seven applications submitted by judicial authorities in the States of the former Yugoslavia under Rule 75 (H) to vary protective measures in the proceedings of the International Tribunal for the Former Yugoslavia. Rule 75 (H) provides an avenue for national judicial authorities in the region of the former Yugoslavia to access confidential information from International Tribunal for the Former Yugoslavia proceedings that is relevant to their domestic war crimes cases.

H. Access orders

57. Orders by the Chambers granting an accused person in one case access to confidential materials in related cases (access orders) require a substantial allocation of resources across the Office of the Prosecutor on a regular basis. The Office of the Prosecutor is required to review the voluminous trial record to identify the materials to be provided or withheld pending follow-up with the provider of the materials or other relevant persons. If access is limited to certain categories of confidential

materials, the Office must review the voluminous trial records to identify the material falling within the relevant categories. There are currently also 18 orders granting access to confidential materials in ongoing trials on a continuing basis. For these cases, the Office of the Prosecutor is required to continuously review the trial records as the cases progress and to notify the Registry of materials to be provided or withheld from the accused person who has been granted access.

III. Cooperation

A. Cooperation from the States of the former Yugoslavia

58. Cooperation from the States of the former Yugoslavia remains crucial, particularly in: locating, arresting and transferring the two remaining fugitives; access to archives, documents and witnesses; and protecting witnesses.

59. To promote and assess cooperation during the reporting period, the Office of the Prosecutor maintained a direct dialogue with key State officials, including national Prosecution offices. The Prosecutor and senior officials in the Office also met with Government and judicial authorities in Serbia, Croatia and Bosnia and Herzegovina prior to preparing the present report.

B. Cooperation of Serbia

60. The Office of the Prosecutor requires cooperation from Serbia in two principal areas. First, the Office requires Serbia's assistance in the key matter of the arrest of the two fugitives, Ratko Mladić and Goran Hadžić. The arrest of the fugitives remains the Office's highest priority. Secondly, the Office requires Serbia's support in ongoing trials and appeals.

1. Arrest of fugitives

61. Serbia's efforts to apprehend the two remaining fugitives remain problematic. This is the most critical outstanding aspect of Serbia's duty to cooperate with the Office of the Prosecutor.

62. The responsibility for locating and arresting the fugitives rests with Serbian authorities. Nevertheless, during the reporting period, the Office of the Prosecutor maintained regular and close contact with the Serbian agencies in charge of locating and arresting the fugitives. This interaction has intensified in recent months and will continue so as to ensure the Office is apprised of ongoing activities.

63. In the last Security Council report, after reviewing operations and in the absence of tangible results, the Office of the Prosecutor encouraged Serbia to adopt a more rigorous approach to arresting the fugitives. It strongly recommended an in-depth review of the strategies employed and identified areas in which the Serbian authorities' operational approach, analysis and methodologies can be improved. Serbian authorities took into account the Office's recommendations and started working on their implementation. Over the past six months, Serbia's security services continued their efforts to track fugitives under the leadership and guidance of the National Security Council.

64. Notwithstanding the expressed commitment of authorities, including at the highest levels of government, to arrest the fugitives and the continuing efforts of operational services, few concrete results have been obtained over the past six months. A number of shortcomings in the way operations are conducted need to be addressed urgently.

65. The Office of the Prosecutor urges the authorities to intensify their efforts to implement the Office's recommendations. In addition, the Office strongly encourages the authorities to explore more expeditiously fresh leads and avenues in the search for the fugitives. Without a more proactive approach, results will not be achieved.

66. The Serbian authorities must fully and effectively mobilize all available resources and continue to give full support to the operational services that have been tasked with tracking and apprehending the fugitives. It is imperative that the expressed willingness to arrest the fugitives be translated into visible and concrete results.

2. Support to ongoing trials and appeals

67. Trial and appeals activity remains highly dependent on Serbia's cooperation. Serbia's responses to the Office of the Prosecutor's requests for access to documents and archives have been timely and adequate during this reporting period. A number of urgent requests were handled satisfactorily and, at this point, no responses are outstanding. Serbia's Council for Cooperation with the Tribunal continued to successfully and efficiently coordinate various Government bodies to address the Office's requests.

68. The Serbian authorities have continued to facilitate the appearance of witnesses before the International Tribunal for the Former Yugoslavia, including by serving summonses. Serbian authorities have also responded adequately to requests for witness protection. The Office of the War Crimes Prosecutor has provided key assistance in these matters.

69. Bearing in mind the tight trial schedule, the Office of the Prosecutor encourages Serbian authorities to continue responding effectively to its requests for assistance. Assistance by Serbia will remain crucial to successful completion by the International Tribunal for the Former Yugoslavia of the remaining trials and appeals.

C. Cooperation of Croatia

70. Croatia is generally responsive to the Office of the Prosecutor's requests for assistance, which are answered adequately, and access is provided to witnesses and evidence.

71. The Office of the Prosecutor's request for important military documents related to Operation Storm is still pending. On 26 July 2010, the Trial Chamber in the *Gotovina et al.* case declined to order Croatia to produce documents due to uncertainties surrounding the whereabouts of the documents requested. However, the Trial Chamber emphasized that Croatia still has a general duty to cooperate with the International Tribunal for the Former Yugoslavia regarding the documents in question.

72. In the past six months, the inter-agency Task Force established in October 2009 to locate or account for the missing military documents has continued its administrative investigations. During this six-month period, the Task Force submitted three reports. The Task Force has begun to explore important new avenues in the investigation that the Office of the Prosecutor communicated to the Task Force over a year ago. While the Office welcomes these efforts by the Croatian authorities, the Task Force's reports reveal inconsistencies and raise questions that have not been resolved. The authorities have acknowledged this and expressed commitment to continue their work.

73. None of the outstanding military documents were provided to the Office of the Prosecutor, and no information was given regarding their possible whereabouts during the reporting period.

74. With completion of proceedings in the *Gotovina et al.* trial, and a judgement expected soon, the Office of the Prosecutor urges the authorities to continue the administrative investigation and to fully account for the missing documents.

D. Cooperation of Bosnia and Herzegovina

75. During the reporting period, the authorities of Bosnia and Herzegovina, at both the State and entity level, responded promptly and adequately to requests for documents and access to Government archives. The authorities continued to assist by facilitating the appearance of witnesses before the International Tribunal for the Former Yugoslavia. A number of urgent requests were handled satisfactorily. The authorities have also assisted the Office of the Prosecutor with witness protection matters.

76. The Office of the Prosecutor continues to encourage law enforcement and judicial authorities in Bosnia and Herzegovina to act against those helping the remaining fugitives to evade justice or who are otherwise obstructing the effective implementation of the mandate of the Tribunal.

77. Radovan Stanković, indicted by the Tribunal for crimes against humanity and war crimes, is still at large more than five years after his escape from prison in Foča. Stanković was serving a sentencing of imprisonment imposed by the Court of Bosnia and Herzegovina after his case was transferred pursuant to Rule 11 bis. This remains a matter of great concern. The Office of the Prosecutor requests that the authorities of Bosnia and Herzegovina, as well as neighbouring States, take all necessary measures to apprehend Stanković.

78. The Office of the Prosecutor continues to support the work of the State Prosecutor and the Special Department for War Crimes. The Prosecutor welcomes the continued appointment of international personnel and support staff in the Special Department for War Crimes.

79. The Office of the Prosecutor also supports the work of the cantonal and district judicial authorities in Bosnia and Herzegovina. The Office encourages improvement in cooperation between State and entity-level jurisdictions, which is crucial for the effective implementation of the Bosnia and Herzegovina National War Crimes Strategy.

80. Authorities are encouraged to continue supporting justice at the national and international level. Any public support from political decision makers for persons convicted of or indicted for serious violations of international humanitarian law could discourage witnesses from giving evidence and undermine efforts aimed at reconciling and stabilizing post-conflict societies.

E. Cooperation between States of the former Yugoslavia in judicial matters

81. Cooperation in judicial matters among the States of the former Yugoslavia remains critical to fulfilment of the Tribunal's mandate. Judicial institutions in the former Yugoslavia continue to face challenges. In particular, legal barriers to the extradition of suspects and the transfer of evidence across State borders continue to present obstacles to effective investigation. Prosecutors from different States continue to initiate parallel war crimes investigations for the same crimes. This situation threatens the successful investigation and prosecution of war crimes cases and exacerbates the problem of impunity. All States in the region must urgently address these important issues.

82. Some progress has been made during the reporting period, with agreements signed between (a) Serbia and Croatia and (b) Croatia and Montenegro for the extradition of citizens who have been accused and convicted of organized crime and corruption. Although these agreements do not extend to extradition of citizens accused of war crimes, the Office of the Prosecutor continues to actively support such initiatives at the regional level.

83. Serbia and Croatia made further progress in implementing the 2006 Bilateral Agreement on Cooperation in the Prosecution of Perpetrators of War Crimes, Crimes against Humanity and Genocide War Crimes Cases between the War Crimes Prosecutor's Office of Serbia and the Public Prosecutor's Office of Croatia.

84. Professional, impartial and cooperative interactions between domestic Prosecution offices are also essential and will become even more important as caseloads expand. The Office of the Prosecutor continues to encourage Prosecutors throughout Serbia, Croatia and Bosnia and Herzegovina to improve their cooperation in the investigation and prosecution of violations of international humanitarian law.

F. Cooperation from other States and organizations

85. The Office of the Prosecutor relies upon other States and international organizations to provide documents, information and witnesses for trials and appeals. The successful completion of the Tribunal's work depends on the international community's assistance in providing witness protection and, when necessary, in supporting witness relocation.

86. The Office of the Prosecutor appreciates the support of States and of international and regional organizations such as the European Union, the Organization for Security and Cooperation in Europe (OSCE), the Council of Europe and non-governmental organizations, including those active in the former Yugoslavia. This support will remain crucial until the Tribunal completes its work.

IV. The transition to domestic prosecution

87. With the transfer of suitable International Tribunal for the Former Yugoslavia cases and other materials back to national courts near completion, the Office of the Prosecutor has shifted its focus in the present reporting period to strengthening horizontal partnerships with its counterparts in the region of the former Yugoslavia. One of the Office of the Prosecutor's foremost priorities is strengthening the capacity of national criminal justice systems to successfully prosecute the large number of war crimes cases stemming from the conflict in the former Yugoslavia.

A. Enhancing partnerships and supporting national prosecutions

88. An integral component of enhancing working relationships with partners in the region has been the presence in The Hague of three Liaison Prosecutors (one from the State Prosecutor's Office in Bosnia and Herzegovina, one from the State Attorney's Office in Croatia and one from the War Crimes Prosecutor's Office in Serbia). These Prosecutors are part of the "Joint European Union and ICTY Training Project for National Prosecutors and Young Professionals from the former Yugoslavia" ("EU-ICTY Project") funded by the European Union.

89. In June 2010, the Project entered its second year of operation. The Liaison Prosecutors are integrated with Office of the Prosecutor staff in The Hague, giving them a unique opportunity to consult with in-house experts on related cases and general issues. They also function as contact points for other national Prosecutors throughout the region who are working on war crimes investigations and cases. Since the Project began in June 2009, the Office has received a combined total of 167 requests for assistance from the region through the Liaison Prosecutors as part of the Project. The co-location of the three Prosecutors in The Hague also encourages their collaboration on bilateral issues.

90. Another successful component of the EU-ICTY Project is the education and training of young legal professionals from the former Yugoslavia. In the past six months, nine young legal professionals from Bosnia and Herzegovina, Croatia, Montenegro and Serbia have worked in The Hague with the Office of the Prosecutor on Tribunal cases. This initiative strengthens the capacity of the countries in the former Yugoslavia to effectively deal with complex war crimes cases in the future.

91. As part of the Office of the Prosecutor's strategy for capacity-building regarding national war crimes prosecutions, Office staff regularly participate in training programmes for local Prosecutors in the former Yugoslavia and regional conferences. For example, the Office participated in the Office for Democratic Institutions and Human Rights of OSCE "War Crimes Justice Project" held in Neum, Bosnia and Herzegovina, in October 2010. Another priority for the Office is sharing information, expertise and best practices with national and international Prosecution offices.

B. Requests for assistance from national judicial authorities

92. During the reporting period the Office of the Prosecutor received 100 incoming requests for assistance from national judicial authorities. Of these, 64 were submitted by national judicial authorities in the former Yugoslavia. The

majority of requests came from Bosnia and Herzegovina (41), with 12 from Croatia and 11 from Serbia. A number of these requests were voluminous, and hundreds of pages of material were provided in response. Liaison Prosecutors working in the Office of the Prosecutor played a key role in facilitating responses to these requests. In addition, 36 requests for assistance were received from Prosecutor's offices and law enforcement agencies in other States investigating war crimes in the former Yugoslavia.

93. The Office of the Prosecutor responded to a total of 107 requests for assistance during the reporting period (some related to requests received in the previous reporting period). Of these responses, 74 concerned requests from the judicial authorities in the former Yugoslavia. The majority of responses (57) were sent to Bosnia and Herzegovina, 6 were sent to Croatia and 11 to Serbia. The remaining 33 responses were sent to the judicial authorities and law enforcement agencies in other States.

C. Rule 11 bis cases and related matters

94. As reported previously, the transfer of cases under Rule 11 bis is complete. Final judgements have now been rendered in five of the six cases transferred to Bosnia and Herzegovina. The case against Milorad Trbić, who was convicted of genocide and sentenced to 30 years' imprisonment, is pending on appeal. OSCE continues to monitor the *Trbić* case on behalf of the Office of the Prosecutor and sends regular reports. The Prosecutor, in turn, submits quarterly progress reports to the Tribunal's Referral Bench.

95. The *Kovačević* case transferred to Serbia remains suspended due to the ill-health of the accused, and it remains unclear if and when the trial will resume. The Office of the Prosecutor receives regular status updates on the trial from the Serbian authorities.

96. Work is currently under way on preparing materials to be transmitted to domestic courts concerning perpetrators of crimes that have been identified in the course of Tribunal cases involving other perpetrators.

V. Downsizing and preparing for the future

A. Downsizing

97. The Office of the Prosecutor is downsizing in accordance with completion of trial activities. When trials finish, the posts for the corresponding trial team are abolished. During the reporting period, the Office downsized, 30 Professional posts (including the D-1 Chief of Prosecutions post) and 12 General Service posts. The Office will continue downsizing posts in accordance with the completion of trials in the next reporting period.

B. Residual mechanism and legacy issues

98. The Office of the Prosecutor continues to engage in, and contribute to, discussions on the establishment of a residual mechanism. Office representatives

interact regularly with the Security Council Informal Working Group on International Tribunals and the Office of Legal Affairs, regarding the residual mechanism's proposed structure, powers and functions.

99. The Office of the Prosecutor recognizes the importance of preserving the Office's institutional knowledge and lessons learned as part of the legacy of the International Tribunal for the Former Yugoslavia. As the Office of the Prosecutor moves further into the process of downsizing with an increasingly rapid rate of staff departures, the need to record valuable institutional knowledge before it is lost becomes more urgent. To the maximum extent possible within the limits of its existing resources, the Office is supporting relevant legacy projects. The Office also has its own initiatives aimed at documenting lessons learned in key areas such as prosecuting sexual violence crimes.

100. The Office of the Prosecutor recognizes that the work and ultimate legacy of the International Tribunal for the Former Yugoslavia are of enormous importance to victims. Throughout the reporting period, the Prosecutor and other Office staff met with representatives of victim groups to ensure that the Office's approach to legacy matters is informed by victim concerns.

VI. Conclusion

101. The Office of the Prosecutor remains committed to finalizing its work in accordance with the Security Council's completion strategy. The Office is working at full capacity to ensure that trials and appeals proceed as expeditiously as possible and that the Office meets its obligations. The arrest of the two remaining fugitives is critical for the successful conclusion of our mandate, reconciliation in the region of the former Yugoslavia and the credibility of the international legal system as a whole.

102. In the final stages of the Office of the Prosecutor's work, our partnerships with our counterparts in the region of the former Yugoslavia are a central focus. We are mindful of the need to support and encourage the work of the local judiciaries as they carry on the important assignment of establishing accountability for crimes committed during the conflict.

103. The international community has strongly supported the Tribunal since its creation, and this support, including provision of the necessary financial support for the Office of the Prosecutor's work, remains crucial to the successful completion of the Office's mandate.

Enclosure I

1. Persons Convicted or Acquitted Between 15 May 2010 and 15 November 2010 (7)			
Name	**Former Title**	**Initial Appearance**	**Judgement**
Vujadin Popović	Lt. Colonel, Chief of Security, Drina Corps, Bosnian Serb Army	18 April 2005	Sentenced to life imprisonment on 10 June 2010
Ljubiša Beara	Colonel, Chief of Security, Main Staff, Bosnian Serb Army	12 October 2004	Sentenced to life imprisonment on 10 June 2010
Drago Nikolić	2nd Lieutenant, Chief of Security, Zvornik Brigade, Bosnian Serb Army	23 March 2005	Sentenced to 35 years' imprisonment on 10 June 2010
Ljubomir Borovčanin	Deputy Commander, Ministry of Internal Affairs Special Police Brigade, Republika Srpska	7 April 2005	Sentenced to 17 years' imprisonment on 10 June 2010
Radivoje Miletić	Chief of Operations and Training, Main Staff, Bosnian Serb Army	2 March 2005	Sentenced to 19 years' imprisonment on 10 June 2010
Milan Gvero	Assistant Commander for Morale, Legal and Religious Affairs, Main Staff, Bosnian Serb Army	2 March 2005	Sentenced to 5 years' imprisonment on 10 June 2010
Vinko Pandurević	Lt. Colonel, Brigade Commander, Zvornik Brigade, Bosnian Serb Army	31 March 2005	Sentenced to 13 years' imprisonment on 10 June 2010

2. Persons Convicted or Acquitted of Contempt Between 15 May 2010 and 15 November 2010 (0)			
Name	**Former Title**	**Initial Appearance**	**Judgement**
No convictions or acquittals			

Enclosure II

I. Persons on Trial Between 15 May 2010 and 15 November 2010 (18)				
Case	**Name**	**Former Title**	**Initial Appearance**	**Start of trial**
1.	Jadranko Prlić	President, Croatian Community of Herceg-Bosna	6-Apr-04	"Herceg-Bosna" trial commenced on 26 April 2006
	Bruno Stojić	Head of Department of Defence, Croatian Republic of Herceg-Bosna		
	Slobodan Praljak	Assistant Minister of Defence, Croatian Republic of Herceg-Bosna		
	Milivoj Petković	Deputy Overall Commander, Croatian Defence Council		
	Valentin Ćorić	Chief of Military Police Administration, Croatian Defence Council		
	Berislav Pušić	Military Police Commanding Officer, Croatian Defence Council		
2.	Vojislav Šešelj	President, Serbian Radical Party	26-Feb-03	Trial commenced on 7 November 2007
3.	Ante Gotovina	Commander, Split Military District, Croatian Army	12-Dec-05	Trial commenced on 11 March 2008
	Ivan Čermak	Assistant Minister of Defence, Commander of Military Police, Croatia	12-Mar-04	
	Mladen Markač	Special Police Commander, Croatia	12-Mar-04	
4.	Momčilo Perišić	Chief of the General Staff, VJ	9-Mar-05	Trial commenced on 2 October 2008
5.	Vlastimir Đorđević	Assistant Minister of the Serbian Ministry of Internal Affairs (MUP), Chief of the Public Security Department of the MUP	19-Jun-07	Trial commenced on 27 January 2009
6.	Mićo Stanišić	Minister, Internal Affairs, Republika Srpska	17-Mar-05	Trial commenced on 14 September 2009
	Stojan Župljanin	Head or Commander of the Serb Operated Regional Security Services Centre	21-Jun-08	

7.	Jovica Stanišic	Head, State Security Services, Republic of Serbia	12-Jun-03	Trial commenced on 9 June 2009
	Franko Simatovic	Commander, Special Operations Unit, State Security Services, Republic of Serbia	2-Jun-03	
8.	Radovan Karadžic	President, Republika Srpska	31-Jul-08	Trial commenced on 26 October 2009
9.	Zdravko Tolimir	Assistant Commander for Intelligence and Security, Main Staff, Bosnian Serb Army	4 June 2007	Trial commenced on 26 February 2010

2. Persons Accused and Awaiting Trial Between 15 May 2010 and 15 November 2010 (3)				
Case	**Name**	**Former Title**	**Initial Appearance**	**Start of trial**
1.	Ramush Haradinaj	Commander of the Kosovo Liberation Army in the Dukagjin area	14 March 2005	TBD
	Idriz Balaj	Commander of the Kosovo Liberation Army Black Eagles Special Unit		
	Lahi Brahimaj	Deputy Commander of the Kosovo Liberation Army Dukagjin Operative Staff		

Enclosure III

1. Arrivals Between 15 May 2010 and 15 November 2010 (1)			
Name	**Former Title**	**Initial Appearance**	**Start of trial**
Jelena Rasić	Member of the Milan Lukic defence team in the *Lukic & Lukic* case	22 September 2010	TBD

2. Remaining Fugitives Between 15 May 2010 and 15 November 2010 (2)			
Name	**Former Title**	**Place of crime**	**Date of indictment**
Ratko Mladic	Commander, Main Staff, Bosnian Serb Army	BiH	25 July 1995
Goran Hadžić	President, Serbian Autonomous District, Slavonia Baranja and Western Srem	Croatia	4 June 2004

Enclosure IV

APPEALS COMPLETED FROM 15 MAY 2010[1]

(with date of Filing and Decision)

INTERLOCUTORY

International Criminal Tribunal for the former Yugoslavia

1. Gotovina et al. IT-06-90-AR73.6	17/05/10-01/07/10
2. Prlic et al. IT-04-74-AR73.17	07/04/10-01/07/10
3. Gotovina et al. IT-06-90-AR54.1	10/06/10-06/07/10
4. Karadžic IT-95-5/18-AR73.8	16/07/10-19/07/10
5. Stanisic & Simatovic IT-03-69-AR65.6	26/07/10-30/07/10
6. Prlic et al. IT-04-74-AR73.18	16/07/10-20/10/10

International Criminal Tribunal for Rwanda

1. Karemera ICTR-98-44-AR73.18	10/05/10-17/05/10
2. Karemera ICTR-98-44-AR91.2	19/04/10-27/05/10
3. Karemera ICTR-98-44-AR91.3	19/04/10-26/08/10
4. Nzabonimana ICTR-98-44D-AR77	26/07/10-20/09/10
5. Ngirumpatse & Karemera ICTR-98-44-AR50	02/09/10-24/09/10
6. Nzeyimana ICTR-00-55-AR73	20/08/10-14/10/10

FROM JUDGEMENT

International Criminal Tribunal for the former Yugoslavia

1. Boškoski & Tarčulovski IT-04-82-A	22/07/09-19/05/10
2. Delic IT-04-83-A	14/10/08-29/06/10
3. Haradinaj et al. IT-04-84-A	01/05/08-19/07/10

International Criminal Tribunal for Rwanda

1. Rukundo ICTR-01-70-A	11/03/09-20/10/10
2. Kalimanzira ICTR-05-88-A	09/07/09-20/10/10

OTHER

International Criminal Tribunal for the former Yugoslavia

1. Prlic et al. IT-04-74-AR65.5 **confidential**	24/06/10-14/07/10

International Criminal Tribunal for Rwanda

1. Nahimana ICTR-99-52B-R	07/05/10-30/06/10
2. Nivitegeka ICTR-96-14-R	25/08/10-06/10/10

REFERRAL

REVIEW

CONTEMPT

International Criminal Tribunal for the former Yugoslavia

1. **confidential and *ex parte***	25/08/09-19/05/10
2. Šešelj IT-03-67-AR77.1 **confidential**	29/06/10-07/09/10
3. **confidential and *ex parte***	03/08/10-15/10/10

[1] **Total number of Appeals Completed from 15 May 2010 = 23**

Interlocutory Appeals = 12
Appeals from Judgement = 5
Other = 3
Referral = 0
Review = 0
Contempt = 3

Enclosure V

APPEALS PENDING AS OF 15 NOVEMBER 2010[2]

(with date of filing)

INTERLOCUTORY

International Criminal Tribunal for the former Yugoslavia

1. Gotovina et al. IT-06-90-AR73.5	28/04/10

International Criminal Tribunal for Rwanda

1. Nzabonimana ICTR-98-44D-AR77bis	26/07/10
2. Karemera et al. ICTR-98-44-AR73.19	07/10/10

FROM JUDGEMENT

International Criminal Tribunal for the former Yugoslavia

1. Šainović et al. IT-05-87-A	27/05/09
2. Lukić & Lukić IT-98-32/1-A	21/07/09
3. Popović et al. IT-05-88-A	18/06/10

International Criminal Tribunal for Rwanda

1. Bagosora et al. ICTR-98-41-A	29/12/08
2. Renzaho ICTR-97-31-A	02/10/09
3. Muvunyi ICTR-00-55A-A	15/03/10
4. Setako ICTR-04-81-A	29/03/10
5. Munyakazi ICTR-97-36A-A	21/07/10
6. Ntawukulilyayo ICTR-05-82-A	12/08/10

OTHER

International Criminal Tribunal for the former Yugoslavia

1. Borovčanin ICTY-05-88-AR65.12	14/10/10

International Criminal Tribunal for Rwanda

1. Nsengimana ICTR-01-69-A	02/02/10
2. Rutaganda ICTR-96-3-R68	04/08/10

REFERRAL

REVIEW

International Criminal Tribunal for the former Yugoslavia

1. Šljivančanin IT-95-13/1-R.1	28/01/10

International Criminal Tribunal for Rwanda

1. Kamuhanda ICTR-99-54A-R	21/05/10
2. Karera ICTR-01-74-R	22/07/10

CONTEMPT

International Criminal Tribunal for the former Yugoslavia

1. Hartmann IT-02-54-R77.5-A	24/09/09

Total number of Appeals pending as of 15 November 2010 = 19

Interlocutory Appeals = 3
Appeals from Judgement = 9
Other = 3
Referral = 0
Review = 3
Contempt = 1

Enclosure VI

Decisions and Orders Rendered from 15 May 2010

(with date of disposition)

International Criminal Tribunal for Rwanda

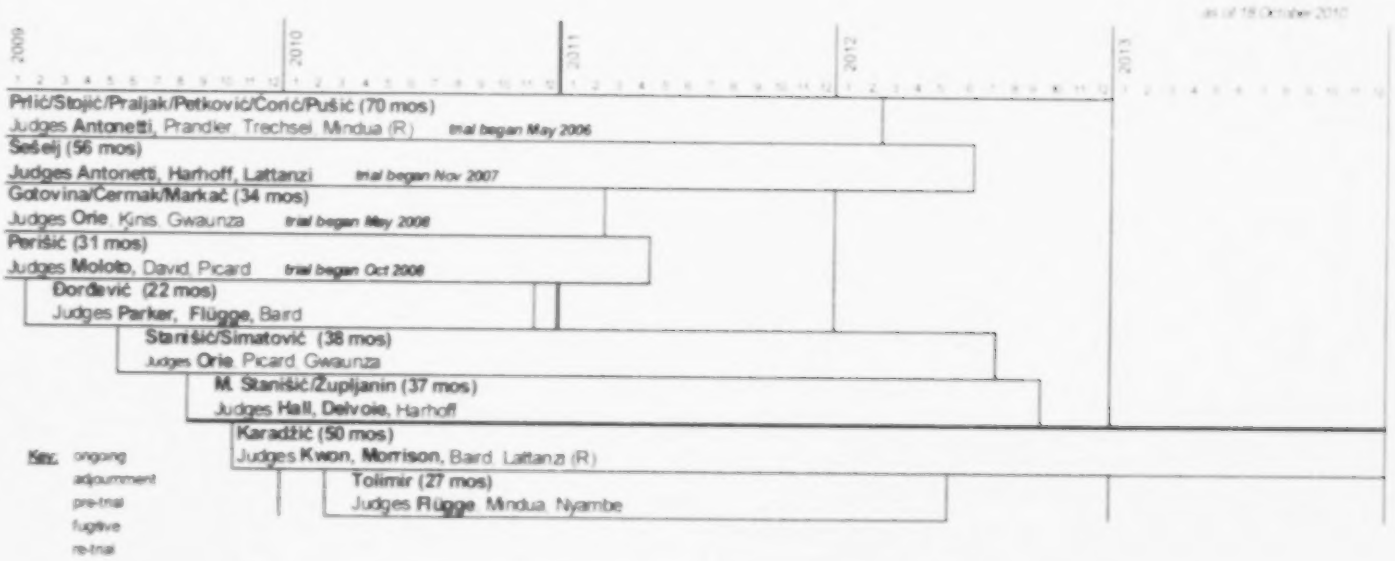
1. 18/05 - *Renzaho*
2. 19/05 - *Renzaho*
3. 19/05 - *Rukundo*
4. 20/05 - *Kalimanzira*
5. 21/05 - *Renzaho*
6. 21/05 - *Renzaho*
7. 01/06 - *Nsengimana*
8. 02/06 - *Kalimanzira*
9. 03/06 - *Kalimanzira*
10. 04/06 - *Rukundo*
11. 04/06 - *Rukundo*
12. 07/06 - *Renzaho*
13. 07/06 - *Renzaho*
14. 08/06 - *Bagosora et al.*
15. 08/06 - *Nzabonimana*
16. 09/06 - *Bagosora et al.*
17. 10/06 - *Kalimanzira*
18. 11/06 - *Kalimanzira*
19. 15/06 - *Renzaho*
20. 23/06 - *Bagosora et al.*
21. 29/06 - *Bagosora et al.*
22. 29/06 - *Bagosora et al.*
23. 13/07 - *Renzaho*
24. 16/07 - *Setako*
25. 22/07 - *Munyakazi*
26. 23/07 - *Bagosora et al.*
27. 23/07 - *Setako*
28. 23/07 - *Nsengimana*
29. 23/08 - *Nzabonimana*
30. 23/08 - *Karera*
31. 23/08 - *Ntawukulilyayo*
32. 24/08 - *Ntawukulilyayo*
33. 24/08 - *Ntawukulilyayo*
34. 25/08 - *Nsengimana*
35. 27/08 - *Nizeyimana*
36. 27/08 - *Nzirorera*
37. 30/08 - *Renzaho*
38. 02/09 - *Bagosora et al.*
39. 10/09 - *Bagosora et al.*
40. 10/09 - *Setako*
41. 16/09 - *Rutaganda*
42. 16/09 - *Setako*
43. 21/09 - *Rukundo*
44. 21/09 - *Kalimanzira*
45. 21/09 - *Kalimanzira*
46. 21/09 - *Muvunyi*
47. 27/09 - *Renzaho*
48. 30/09 - *Renzaho — Conf.*
49. 06/10 - *Bagosora et al.*
50. 06/10 - *Setako — Conf.*
51. 13/10 - *Conf. and ex parte*
52. 14/10 - *Nizeyimana*
53. 14/10 - *Conf. and ex parte*

International Criminal Tribunal for the former Yugoslavia

1. 17/05 — *Conf. and ex parte*
2. 17/05 - *Šainović et al. — Conf.*
3. 17/05 - *Šainović et al. — Conf.*
4. 21/05 - *Šljivančanin*
5. 27/05 - *Šainović et al. — Conf.*
6. 28/05 - *Šljivančanin*
7. 31/05 - *Šljivančanin*
8. 01/06 - *Šainović et al. — Conf.*
9. 03/06 - *Boškoski & Tarčulovski — Conf.*
10. 18/06 - *Gotovina et al.*
11. 24/06 - *Boškoski & Tarčulovski — Conf.*
12. 25/06 - *Popović et al.*
13. 28/06 - *Lukić & Lukić*
14. 29/06 - *Delić*
15. 29/06 - *Delić*
16. 30/06 - *Lukić & Lukić*
17. 02/07 - *Boškoski & Tarčulovski Misc. 1*
18. 06/07 - *Popović et al. — Conf.*
19. 12/07 - *Šainović et al.*
20. 14/07 - *Šainović et al. — Conf.*
21. 14/07 - *Šljivančanin*
22. 21/07 - *Lukić & Lukić*
23. 23/07 - *Šljivancanin*
24. 04/08 - *Šainović et al. — Conf.*
25. 06/08 - *Lukić & Lukić*
26. 09/08 - *Šainović et al.*
27. 09/08 - *Šešelj*
28. 23/08 - *Šainović et al.*
29. 25/08 - *Šainović et al. — Conf.*
30. 03/09 - *Šainović et al.*
31. 07/09 - *Šainović et al.*
32. 07/09 - *Popović et al.*
33. 08/09 - *Šainović et al.*
34. 14/09 - *Šainović et al.*
35. 22/09 - *Šainović et al.*
36. 23/09 - *Boškoski & Tarčulovski — Conf.*
37. 05/10 - *Popović et al. — Conf.*
38. 07/10 - *Popović et al.*
39. 07/10 - *Šljivančanin*
40. 07/10 - *Šljivančanin*
41. 13/10 - *Šljivančanin*
42. 20/10 - *Popović et al.*

Total number of decisions and orders rendered = 95

Enclosure VII
International Tribunal for the Former Yugoslavia trial schedule



Re-trial proceedings:

1. IT-04-84bis-PT Haradinaj et al. (Judges Moloto, Hall, Delvoie) as per AC judgement of 19 July 2010

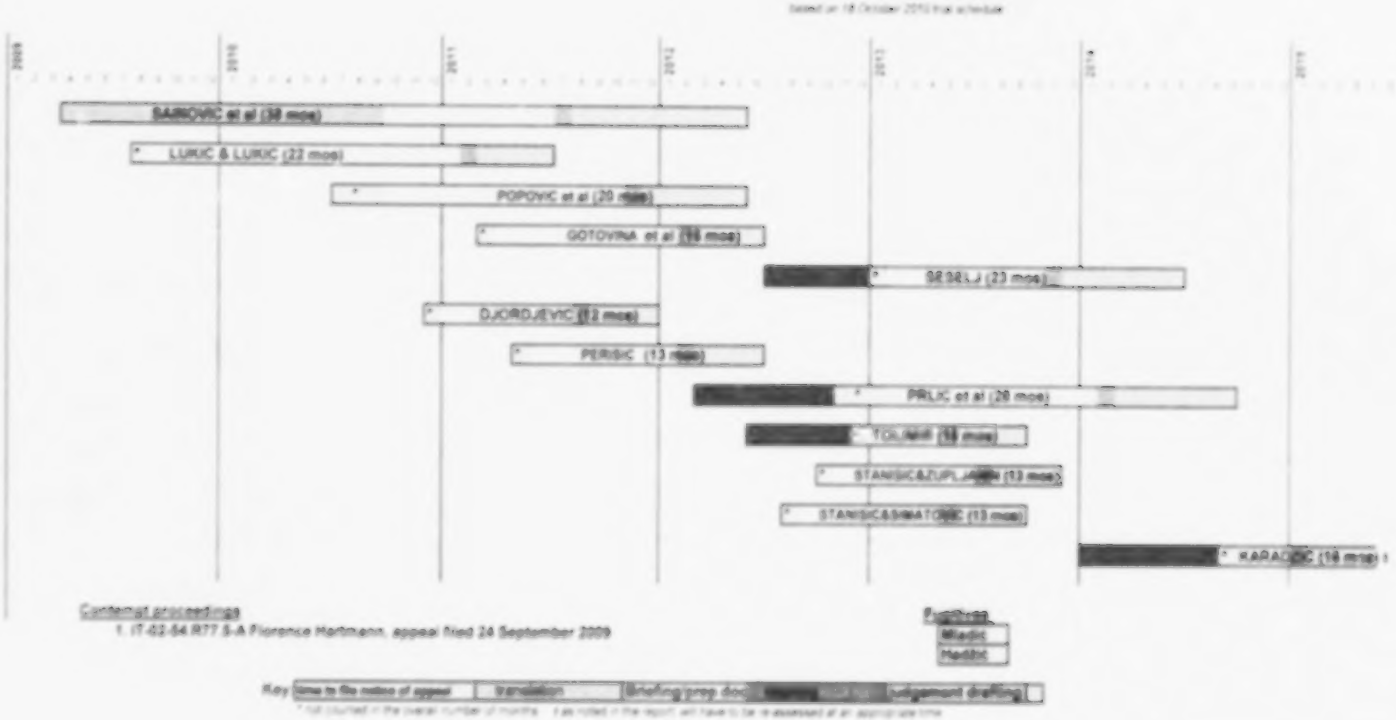
Contempt proceedings (indictment or order in lieu of indictment filed):

1. IT-04-84-R77.1 Shefqet Kabashi (at large), indictment issued 5 June 2007
2. IT-03-67-R77.3 Vojislav Šešelj, order in lieu of indictment issued on 3 February 2010
3. IT-98-32/1-R77.2 Jelena Rašić, indictment confirmed 26 August 2010

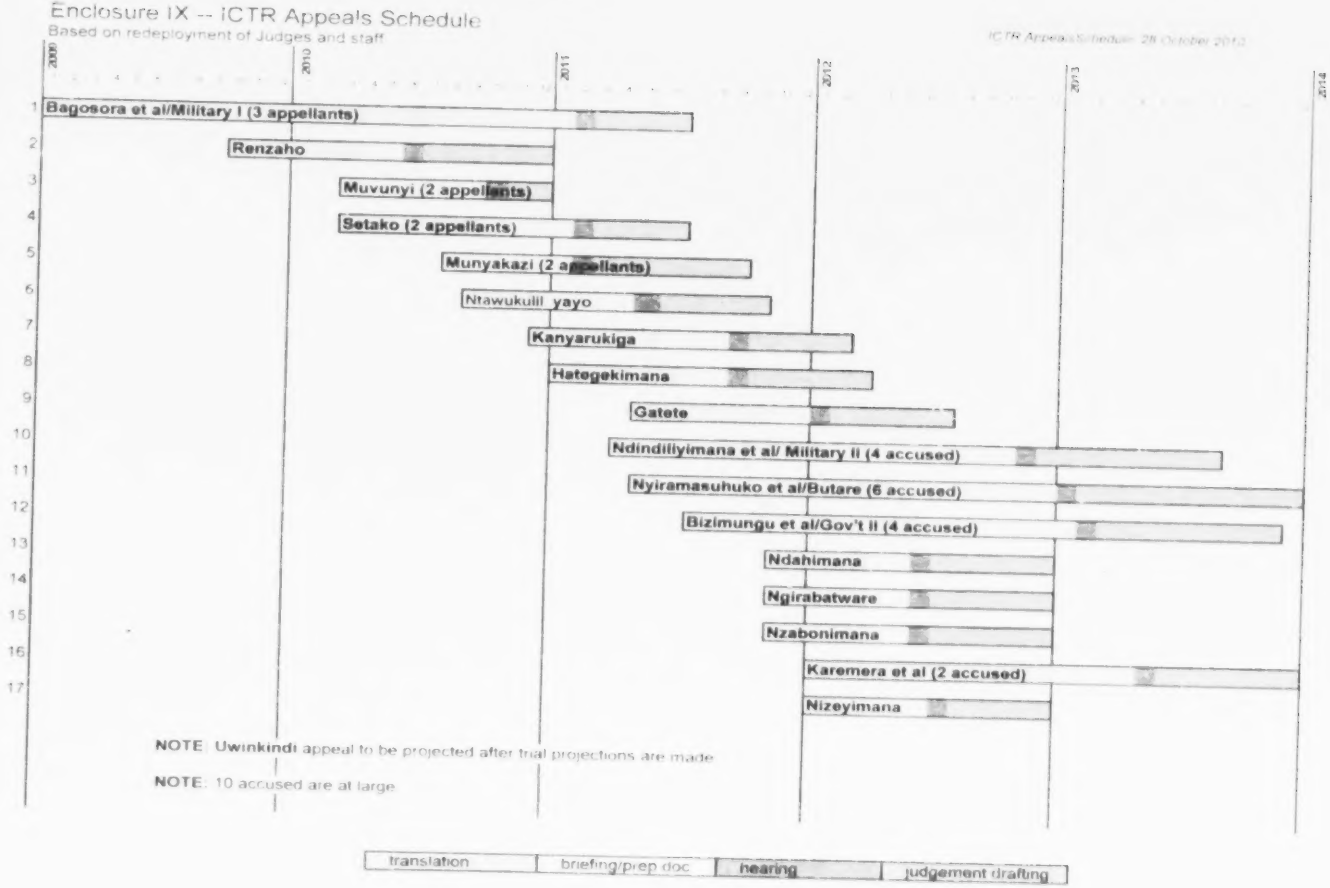
Fugitives to be tried upon arrival

Mladić
Hadžić

Enclosure VIII
International Tribunal for the Former Yugoslavia appeal schedule



Enclosure IX
International Criminal Tribunal for Rwanda appeals schedule



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